

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1750

SPONSOR: Commerce and Economic Opportunities Committee and Senator Klein

SUBJECT: Economic Development/Emerging and Strategic Technologies

DATE: April 13, 2001

REVISED: 04/18/01

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Maclure</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	<u></u>	<u></u>	<u>GO</u>	<u>Withdrawn</u>
3.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable/1 amend</u>
4.	<u></u>	<u></u>	<u>AGG</u>	<u></u>
5.	<u></u>	<u></u>	<u>AP</u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

I. Summary:

This committee substitute creates the “Florida Emerging and Strategic Technologies Act.” It expresses the intent of the Legislature to enact policies designed to address issues affecting the viability and development of high-technology industries in the state, such as the information technology industry and the health technology industry. The committee substitute contains policies relating to taxation, workforce development, transfer of technology from universities, and availability of capital for such industries. The committee substitute enacts some of the recommendations emanating from the business, workforce, and entertainment subcommittees of the Information Service Technology Development Task Force. Some of the principal provisions of the committee substitute include:

- Creating the Florida Research Consortium as a not-for-profit corporation with a board of directors comprised of business and university leaders, charged with targeting the activities of universities toward fulfillment of the economic development goals of the state;
- Providing a sales tax exemption for machinery and equipment used in health technology production and research and development activities, as well as for building materials purchased for use in manufacturing or expanding clean rooms;
- Authorizing a corporate income tax credit for employers who pay matriculation and other fees on behalf of current or prospective employees enrolling in approved information technology educational programs;
- Declaring that economic development and the transfer of technology are fundamental components of the mission of the state system of postsecondary education;
- Requiring the development of conflict-of-interest guidelines which are applicable to the transfer of technology from public universities;

- Expressing the intent of the Legislature that the Board of Administration invest funds from the State Retirement System in a manner that complements the economic development goals of the state, including helping to provide venture capital to Florida-based businesses;
- Increasing the statutory cap to \$35 million on the total state share of tax refunds that may be scheduled for payment in a given future fiscal year under the Qualified Target Industry and Qualified Defense Contractor tax refund programs;
- Declaring that the information technology industry is a high-impact sector for the purposes of a grant program for businesses making significant investments in production or research and development facilities in the state;
- Authorizing a program that provides financial support for the establishment of joint-use advanced digital media research and production facilities which are designed to bring the educational and business communities together, in part to help address the workforce needs of the digital media industry;
- Providing for the continuation of the Digital Media Education Coordination Group;
- Specifying that information technology activities are within the scope of the Florida Industrial Development Financing Act;
- Directing Enterprise Florida, Inc., to develop a marketing campaign to promote the existence and growth of high-technology industries in the state;
- Transferring primary responsibility to Workforce Florida, Inc., for maintenance of a website designed to market the information technology industry and promote workforce recruitment for the industry; and
- Creating a pilot internship program designed to encourage employment of needy youth in high-technology businesses.

This committee substitute substantially amends the following sections of the Florida Statutes: 159.26, 159.27, 212.08, 220.02, 220.13, 240.710, 288.095, 288.108, 288.911, and 445.045. The committee substitute creates the following sections of the Florida Statutes: 112.3133, 121.155, 220.192, 240.1055, and 288.9522. The committee substitute also creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Information Service Technology Development Task Force

The Legislature in 1999 created the Information Service Technology Development Task Force (task force) within the Department of Management Services (ch. 99-354, L.O.F.). The task force, which operates under the name "itflorida.com" and which dissolves on July 1, 2001, is composed of 34 members from the public and private sectors. The charge of the task force includes developing overarching principles to guide state policy decisions with respect to the free-market development and beneficial use of advanced communications networks and information technologies; identifying factors that will affect the ability of such technologies to flourish in the state; and developing policy recommendations for each factor.

To achieve its purposes, the task force divided its stated directives among nine subcommittees. Each subcommittee developed policy recommendations according to its stated directive.¹ Policy recommendations from the eBusiness subcommittee included:

- Formation of a private entity, itflorida.com, Inc., to continue the work of the task force following the task force's dissolution;
- Development of the information technology marketing and image campaign by Enterprise Florida, Inc., required under legislation adopted during the 2000 session (s. 34, ch. 2000-164, L.O.F.; s. 288.911, F.S.²);
- Expansion of the Certified Capital Company (CAPCO) Act under s. 288.99, F.S.;
- Revision of the \$30 million cap – to \$35 million – on the total state share of tax refund payments that may be scheduled for future fiscal years under the Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs;
- Creation of a broad-based sales tax credit for machinery and equipment purchased for use in research and development activities;
- Repeal of the tax on intangible personal property;
- Inclusion of “information technology” as a project activity eligible for industrial revenue bond financing;
- Designation of “information technology” as a sector eligible for participation in the state's grant program for high-impact businesses under s. 288.108, F.S.; and
- Authorization by the Legislature of a study on whether to adopt the Uniform Computer Information Transactions Act (UCITA) (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 9-10).

Some of the recommendations of the eWorkforce subcommittee included:

- Provision of career education starting in middle school regarding careers in high technology and information technology;
- Creation of a corporate income tax program for employers who pay tuition and fees for employees or prospective employees enrolling in certain information technology programs; and
- Facilitation of partnerships between the private sector and the education community in targeted activities (*id.* at pp. 11-12).

Recommendations of the eEntertainment subcommittee included:

¹ The nine subcommittees included: eBusiness Development, Retention & Recruitment; eEducation K-12; eWorkforce; eAccess & Awareness; eGovernment; eLaws – Administrative & Regulatory; eLaws – Civil & Criminal; eInfrastructure & Technology Development; and eEntertainment (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 1-3).

² This statute requires EFI to “create a marketing campaign to help attract, develop, and retain information technology businesses in the state.” Further, the statute specifies that the “message of the campaign shall be to increase national and international awareness of this state as a state ideally suited for the successful advancement of the information technology business sector” (s. 288.911(1) and (2), F.S.).

- Development of joint-use advanced digital media research and production facilities at strategic locations in the state, with the facilities serving as focal points for collaboration between the digital media industry and educational institutions; and
- Designation of the digital media industry as a high-impact sector for the purposes of some of the state's incentive programs, such as the grant program for high-impact businesses under s. 288.108, F.S., and the QTI tax refund program under s. 288.106, F.S. (*id.* at p 14).

Health Technology Industry

In addition to the information technology industry, the health technology industry has been identified by Enterprise Florida, Inc. (EFI), the state's principal economic development organization, as being an industry that presents significant growth potential, job opportunities, and overall economic impact to the state. EFI reports that the industry employs more than 29,876 individuals in more than 1,400 firms. Further, the industry pays direct wages of nearly \$1.05 billion, with an average wage of \$35,076 (Enterprise Florida, Inc., *The Health Technology Industry in Florida: An Addendum to the Health Technology Discussion Paper (May 1997)*, September 1998, p. 3).

To help identify the factors affecting the further development of the industry, EFI convened a task force that included industry representatives. Some of the key industry needs identified by the task force members can be grouped as follows: the need for capital to finance research, development, and expansion expenses; the need to generate a skilled pool of workers – entry level to high-skill – through the state's educational system; the need for tax policies or other incentives that support research and development activities, as well as the purchase of machinery and equipment for manufacturing; and the need to facilitate the transfer of technology from the university setting, as well as the building of relationships between universities and the private sector (*id.* at pp. 53-57).

Digital Media

During the 2000 regular session, the Legislature required the Board of Regents to create a Digital Media Education Coordination Group to develop a plan to enhance Florida's ability to meet the current and future workforce needs of the digital media industry (s. 153, ch. 2000-165, L.O.F., as codified in s. 240.710, F.S.). The group issued its report to the Legislature in January 2001. One of the recommendations of the group was that a Florida Digital Media Coordinating Council be created to serve as a coordinating council for digital media education, research, and workforce development. The group provided that one of the council's functions would be to plan for and seek public and private funding for a series of regional joint-use advanced digital media production facilities. The facilities would be designed to encourage collocation and collaboration between industry and educational entities. Among other purposes, the facilities would provide affordable access to state-of-the-art facilities for both academic and industry partner activities and would provide professional development of students through involvement with actual industry projects (State University System of Florida, *Digital Media Education Coordination Group Report to the Florida Legislature*, January 1, 2001, p. 10).

Economic Development/Workforce Development Tools

Bond Financing: Part II of ch. 159, F.S., is the “Florida Industrial Development Financing Act.” The federal government provides an annual allocation to the state for the issuance of tax exempt industrial revenue bonds. The estimated amount available in 1999 was \$765 million. Section 159.26, F.S., governs the legislative findings and purpose of the act and cites specific activities as being vital to the state in relation to the use of financing under the act, including, but not limited to, agriculture, tourism, urban development, historic preservation, education, and health care industries. The Information Service Technology Development Task Force recommended that information technology be added to the act as an eligible category of activities (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, p. 22).

Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) Tax Refund Programs: The QTI tax refund program, s. 288.106, F.S., is one of the state’s economic development incentives. Under the program, eligible businesses may receive refunds of previously paid taxes, based upon the creation of jobs at a certain salary level. Similarly, the QDC tax refund program, s. 288.1045, F.S., authorizes tax refunds to a certified contractor that: 1) secured a new Department of Defense (DOD) contract; 2) consolidated an existing DOD contract in Florida; 3) converted defense production jobs to non-defense production jobs; or 4) contracted for the reuse of a defense-related facility. Section 288.095, F.S., imposes a cap on the total state share of tax refund payments scheduled in all active certifications for a fiscal year under these two programs. For FY 2000-2001, the cap is \$24 million; for subsequent fiscal years, the cap is \$30 million. The task force recommended raising the cap to \$35 million (*id.* at p. 21).

High Impact Performance Incentives: Section 288.108, F.S., provides for the payment of grants to a business in a high-impact sector that makes a cumulative investment in the state of \$100 million and creates at least 100 full-time jobs. In the case of a research-and-development facility, the investment must be \$75 million, with 75 full-time jobs. The statute prescribes a process under which Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development select and designate the high-impact sectors eligible for the program. The statute currently specifies that the silicon-technology sector is a high-impact sector (s. 288.108(6)(i), F.S.). Although the information technology sector has been designated through the prescribed process, the task force recommended that the information technology be specifically cited in statute (*2001 Annual Report of the Information Service Technology Development Task Force* at p. 22).

Tax on Sales, Use, and Other Transactions/Corporate Income Tax

Chapter 212, F.S., provides for a 6-percent tax on sales, use, and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under ch. 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a 6-percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in Florida. Section 212.05(1)(b), F.S., provides for a 6 percent tax on the price of any item of

tangible personal property that is not sold but used in Florida. Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from 0.5 percent to 1.0 percent each, with a maximum of 1.5 percent.

Section 212.08(5), F.S., provides exemptions from the tax imposed by this chapter based on use. Section 212.08(5)(j), F.S., provides an exemption from the sales and use tax for machinery and equipment purchased for use in semiconductor technology facilities to manufacture, produce, compound, or process semiconductor technology products. Additionally, machinery and equipment purchased for use predominately in semiconductor wafer research and development activities in a certified semiconductor technology research and development facility are also exempt. The exemption is for machinery and equipment used “predominately” in semiconductor wafer research and development, with “predominately” defined to mean such use of the equipment is at least 50 percent of the time.

On January 1, 2001, provisions amending s. 212.08(5)(j), F.S., (passed during the 2000 legislative session) went into effect, including a 25 percent exemption for space and defense technology facilities. The exemption was applied to machinery and equipment used in defense or space technology facilities if the machinery and equipment are: 1) used to manufacture, process, compound, or produce defense technology products or space technology products for sale or for use by these facilities; or 2) used predominately in defense or space research and development activities. Also during the 2000 regular session, the Legislature authorized a sales tax exemption for building materials purchased for use in manufacturing or expanding clean rooms in semiconductor-manufacturing facilities (s. 212.08(5)(j)3., F.S.).

To receive the exemption, an eligible business must apply to Enterprise Florida, Inc. (EFI), which is responsible for reviewing the applications and making the recommendation of approval or disapproval to the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) within a specified time period. OTTED must either approve the application within five working days or notify the applicant of its denial and reasons why within 10 working days. Businesses must apply annually to OTTED for the exemption and provide to OTTED the average number of full-time equivalent employees at the facility, the average wage and benefits paid to those employees over the preceding calendar year, the total investment made in real and tangible personal property over the preceding calendar year since the date of certification, and the total value of tax-exempt purchases and taxes exempted during the previous year. OTTED is responsible for using this information to prepare an annual report on the exemption program and its cost and impact.

The exemption program allows certified businesses to designate one or more state universities or community colleges as recipients of up to 100 percent of the amount of the exemption for which they may qualify. To receive these funds, the institution agrees to match the funds with equivalent cash, programs, services, or other in-kind support on a one-to-one basis in the pursuit of research and development projects as requested by the certified business. Rights to patents, royalties, or real or intellectual property must be vested in the business unless otherwise agreed to by the business and the university or community college.

During the 2000 regular session, the Legislature authorized a sales tax exemption for equipment used to deploy broadband technologies (s. 37, ch. 2000-164, L.O.F., as codified in s.

212.08(5)(p), F.S.). Under the provision, equipment purchased by a communications service provider that is necessary for use in deploying such technologies as part of directly participating in a network access point is exempt from sales tax. The exemption inures only through a refund of previously paid taxes. The Legislature appropriated \$700,000 from non-recurring General Revenue for fiscal year 2000-2001 to the Department of Revenue to reimburse eligible companies under this statute for sales tax payments (s. 38, ch. 2000-164, L.O.F.). The law defines a network access point “as a carrier-neutral, public-private Internet traffic exchange point” (s. 212.08(5)(p)1., F.S.).

Chapter 220, F.S., is the state corporate income tax code. The Legislature has declared its intent to impose a tax “upon all corporations, organizations, associations, and other artificial entities which derive from this state or from any other jurisdiction permanent and inherent attributes not inherent in or available to natural persons, such as perpetual life, transferable ownership represented by shares or certificates, and limited liability for all owners” (s. 220.02, F.S.). The tax rate is 5.5 percent of the taxpayer’s net income for the taxable year (s. 220.11, F.S.).

Public Officers and Employees

Part III of ch. 112, F.S., prescribes the code of ethics for public officers and employees. For purposes of this code, an “agency” includes any public school, community college, or state university. The code provides that “no public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or agency which is ... doing business with an agency of which he or she is an officer or employee” (s. 112.313(7)(a), F.S.). The code further provides that an agency employee shall not “have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties” (*id.*). The state’s conflict of interest policies have been cited as one of the factors affecting the transfer of technology from the university setting to the marketplace. (*See Enterprise Florida, Inc., The Health Technology Industry in Florida: An Addendum to the Health Technology Discussion Paper (May 1997), September 1998, pp. 93-96.*)

Investments of Florida Retirement System Funds

Chapter 121, F.S., governs the Florida Retirement System. The System Trust Fund is the trust fund established in the State Treasury for the purpose of holding and investing the contributions by members and employers of the Florida Retirement System and paying system benefits (s. 121.021(36), F.S.). The Board of Administration has responsibility for investing and reinvesting available funds of the System Trust Fund consistent with provisions contained in ch. 215, F.S. (s. 121.151, F.S.). The Investment Advisory Council is a six-member council that reviews the investments made by staff of the Board of Administration and that makes recommendations regarding investment policies, strategies, and procedures (s. 215.444, F.S.).

In 1995, the Board of Administration (board) contributed \$15 million toward the capitalization of the Cypress Equity Fund, which is a venture capital “fund of funds” concept developed by Enterprise Florida, Inc. (*See Office of Program Policy Analysis and Government Accountability, Review of the Enterprise Florida, Inc., Capital Development Board’s Cypress Equity Fund,*

Report No. 98-33, December 1998, p. 2.) The board and five financial institutions contributed a total of \$35.5 million, which has been invested in a portfolio of venture capital funds formed by professional venture capitalists, who, in turn, invest in individual businesses according to their individual investment criteria. This approach differs from a concept in which direct investments are made in individual companies.

III. Effect of Proposed Changes:

This committee substitute creates the “Florida Emerging and Strategic Technologies Act.” It expresses the intent of the Legislature to enact policies designed to address issues affecting the viability and development of high-technology industries in the state, including but, not limited to, the information technology industry and the health technology industry. The committee substitute contains policies relating to taxation, workforce development, transfer of technology from universities, and availability of capital for such industries. The committee substitute, in part, enacts some of the recommendations emanating from the business, workforce, and entertainment subcommittees of the Information Service Technology Development Task Force. Following is a section-by-section analysis of the committee substitute.

Section 1 provides that this act may be cited as the “Florida Emerging and Strategic Technologies Act.”

Section 2 creates s. 112.3133, F.S., relating to standards of conduct applicable to technology transfer at public universities. This section expresses the intent of the Legislature to have public universities operate under policies that do not impede the development of working relationships among university employees and businesses relating to the transfer of technology, but that also require disclosure of significant financial interests by university employees in such businesses.

The committee substitute directs the State Board of Education to develop guidelines by January 1, 2002, which permit an employee of a public university to have a relationship with a business entity that is doing business with the university, provided that the relationship stems from the transfer and commercialization of technology from the university. The committee substitute establishes minimum standards for these guidelines, including that: 1) the employee must submit a statement of significant financial interests; 2) the statement must be annually updated; and 3) there must be enforcement mechanisms and sanctions within the guidelines. The committee substitute requires public universities to establish processes to enforce the guidelines and to appoint officers to review statements of financial disclosure submitted under the guidelines. Finally, the committee substitute requires the State Board of Education to report to the Governor and Legislature on any recommended statutory changes to facilitate use of the guideline and to enhance technology transfer.

Section 3 creates s. 121.155, F.S., relating to investments of the Florida Retirement System in support of the state’s economic development goals. This new section of the Florida Statutes contains legislative findings that access to capital affects the growth of high technology businesses in the state and that the State Board of Administration (SBA), by virtue of its authority to invest state retirement system dollars, can influence the availability of capital for such businesses. The committee substitute expresses the intent of the Legislature that the SBA maximize opportunities to invest state retirement system dollars in a manner that complements

economic development goals, such as investing funds in support of emerging and strategic technology businesses in the state and forming partnerships with venture capital firms to encourage investment of venture capital funds in these businesses. The committee substitute requires the SBA to solicit information from Enterprise Florida, Inc. (EFI), on state economic development goals; to share such information with the SBA's Investment Advisory Council; and to report to the Legislature on the SBA's activities that further the legislative findings and intent.

Sections 4 and 5 amends ss. 159.26 and 159.27, F.S., the "Florida Industrial Development Financing Act" to specify that activities promoting the advancement of information technology and projects comprising information technology facilities are eligible for bond financing under the act. Further, the committee substitute provides a definition of the term "information technology facility," which specifies – by Standard Industrial Classification (SIC) codes – the types of businesses included within the term. The North American Industry Classification System (NAICS) is replacing the SIC system. The Legislature may wish to consider replacing the SIC codes used in **Section 5** with NAICS codes to the extent they are available and compatible.

Section 6 amends s. 212.08(5)(j), F.S., to create a sales and use tax exemption for machinery and equipment used in health technology production and research and development. Under the committee substitute, no sales tax would be due on purchases of machinery and equipment used in health technology facilities to manufacture, process, compound, or produce health technology products. Similarly, no sales tax would be due on purchases of such machinery and equipment used predominantly in health technology research and development. The committee substitute also expands an existing sales tax exemption for building materials used in manufacturing or expanding clean rooms in semiconductor-manufacturing facilities – to include such clean rooms in health-technology-manufacturing facilities.

The committee substitute defines "health technology products" to mean biopharmaceutical or biological drugs; surgical, medical, and dental instruments, supplies, and devices; ophthalmic goods; laboratory apparatus; laboratory analytical instruments; optical instruments and lenses; and related health technology products as determined by the Office of Tourism, Trade, and Economic Development, in consultation with Enterprise Florida, Inc.

To receive the exemptions, a qualified business would apply for eligibility certification to EFI, which in turn issues a recommendation to the Office of Tourism, Trade, and Economic Development (OTTED). OTTED must either approve the application within five working days or notify the applicant of its denial and reasons why within 10 working days. Businesses must apply annually to OTTED for the exemption and provide to OTTED the average number of full-time equivalent employees at the facility, the average wage and benefits paid to those employees over the preceding calendar year, the total investment made in real and tangible personal property over the preceding calendar year since the date of certification, and the total value of tax-exempt purchases and taxes exempted during the previous year. OTTED is responsible for using this information to prepare an annual report on the exemption program and its cost and impact.

Sections 7, 8, and 9 relate to the creation of a corporate income tax credit for employers who pay the tuition and fees of an employee or prospective employee enrolling in approved information technology education programs.

Section 9 creates s. 220.192, F.S., which authorizes the credit – equal to 100 percent of the matriculation and other fees paid to an employee or prospective employee who enrolls in a college degree or certificate program in information technology. The maximum amount of annual credits that a corporation may receive for payments made in any one year is \$50,000. In addition, the total amount of credits for all corporations in any one-year is capped at \$5 million. Workforce Florida, Inc., must develop and update annually the approved list of information technology programs that provide a basis for the credit. To receive the credit, a corporation must apply to and be approved by the Office of Student Financial Assistance. **Section 7** amends s. 220.02(8), F.S., which is the Legislature’s expression of intent about the priority order in which various corporate income tax credits should be claimed, to reflect the creation of the new credit. **Section 8** amends s. 220.13, F.S., relating to the definition of the term “adjusted federal income,” to provide that the amount claimed in the new credit shall be added to the taxpayer’s taxable income.

Section 10 creates s. 240.1055, F.S., which provides that the mission of the state system of postsecondary education includes complementing, facilitating, and supporting state and local economic development goals. This section further specifies that it is the policy of state to use the patent system and technology-licensing operations of public universities to promote the transfer of technology from the university setting to the private sector.

Section 11 amends s. 240.710, F.S., to provide for continued functioning of the Digital Media Education Coordination Group that was created in 2000 to develop a plan for enhancing the state’s ability to meet the workforce needs of the digital media industry. The committee substitute provides for the coordination group to be formed within the purview of the Division of Universities at the Department of Education, rather than by the Board of Regents. Obsolete provisions related to the development of the plan are deleted, as the plan was submitted to the Legislature in January 2001. The committee substitute provides, however, for the coordination group to continue to work on the issue of enhancing the state’s ability to meet the industry’s workforce needs. This section specifies that the coordination group shall work with the Division of Community Colleges; the Office of Tourism, Trade, and Economic Development; and the Articulation Coordinating Committee. The coordination group is required to report annually to the State Board of Education.

Section 12 amends s. 288.095, F.S., to increase the cap – to \$35 million from the current level of \$30 million – on the total state share of tax refunds that may be scheduled for payment in future fiscal years under the Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs. Tax refund payments under these programs are paid out over a period of years. The cap on the amount of payments that can be scheduled in future years affects the ability to enroll new businesses in the programs today, because a new business cannot be enrolled if that would mean that amount of payments scheduled in a future year exceeds the cap. By raising the cap on the amount of permissible future payments, this committee substitute has the effect of allowing program administrators to enroll additional businesses in the programs and thereby increasing the likely total amount of refunds scheduled for payment in future years.

Section 13 amends s. 288.108, F.S., relating to a grant program for high-impact businesses, to specify that the “information technology sector” is comprised of the types of businesses that produce the high impact the incentive is designed to encourage. This revision also provides that for the purposes of this economic development incentive, as well as the capital investment tax credit under s. 220.191, F.S., the information technology sector encompasses the digital media sector as defined by Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development. This section also replaces the term “silicon technology” with the term “semiconductor technology” for purposes of this industry’s existing designation as a high-impact business.

Section 14 substantially rewords s. 288.911, F.S., which contains the existing provisions requiring Enterprise Florida, Inc. (EFI), to create a marketing campaign to attract information technology businesses to the state. As substantially reworded, this section would require the marketing campaign to promote the existence and growth of high-technology industries, rather than solely the information technology industry. The campaign’s purpose is to inform businesses and individuals about the high-technology businesses in the state, as well as about the workforce, infrastructure, and other services relevant to the industry. An additional purpose is to promote the state as an ideal location for high-technology activities, in an effort to recruit businesses, workers, and students in high-technology fields, as well as help retain and increase such existing businesses, workers, and students. This section prescribes organizations and entities with which EFI must consult in developing the marketing campaign. Further, this section specifies that the campaign, at a minimum, must include development of a “brand” identification for use in promoting the state as a high-technology business location and must use, as one method of distributing the marketing message, the Internet-based system that the Legislature prescribed during the 2000 session to promote the information technology industry. (*See* s. 35, ch. 2000-164, L.O.F., codified at s. 445.045, F.S., which requires the Department of Labor and Employment Security to facilitate development and maintenance of a website that promotes the information technology industry and provides a means for employers and jobseekers to post information. Section 445.045, F.S., is amended by section 17 of this committee substitute.)

Section 15 expresses the intent of the Legislature that, upon the dissolution of the Information Service Technology Development Task Force (task force), the state seek continued policy guidance on information technology issues from a not-for-profit corporation formed to advocate on behalf of the industry. The committee substitute directs the State Technology Office; the Office of Tourism, Trade, and Economic Development; and Enterprise Florida, Inc., to assist with the initial formation and operation of the corporation, as well as to use the corporation as an information resource. One of the recommendations of the task force was that its function of serving as a resource on information technology issues be privatized. The task force envisioned that a statewide industry advocacy group would be formed and operate without public funds, and that the corporation would conduct activities comparable to those of the task force, such as advocating policies and promoting the industry (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 22-24).

Section 16 provides for the creation of the Florida Research Consortium, which is to be the principal organization for uniting research universities and the business community in order to encourage development and commercialization of technologies and for focusing university

activities toward fulfillment of state economic development goals. The consortium is to be structured as a not-for-profit corporation with a board of directors that includes:

- Ten chief executive officers (CEOs) of Florida-based businesses appointed by the Governor;
- Two CEOs of Florida-based businesses appointed by the President of the Senate;
- Two CEOs of Florida-based businesses appointed by the Speaker of the House of Representatives;
- The presidents of the following universities:
 - University of Florida;
 - Florida State University;
 - University of Central Florida;
 - University of South Florida;
 - Florida Atlantic University;
 - Florida International University;
 - Florida Agricultural and Mechanical University;
 - University of North Florida;
 - Florida Gulf Coast University;
 - University of West Florida; and
 - University of Miami;
- The presidents of Enterprise Florida, Inc., and Workforce Florida, Inc.;
- One representative from each of two not-for-profit research institutes located in the state which are not public or private universities, appointed by the Governor;
- The Governor or the Governor's designee, who shall serve as an ex-officio, nonvoting member; and
- The Commissioner of Education or the commissioner's designee, who shall serve as an ex-officio, non-voting member.

The committee substitute prescribes the powers of the consortium, the principal ones of which include:

- Identifying three specific disciplines in science or technology which shall be the focus of the consortium's activities, with these disciplines being narrowly defined areas where the state has the potential to achieve success in terms of economic and academic development;
- Attracting preeminent researchers in science and technology-based disciplines to universities in the state, including endowing faculty or research chairs in the target disciplines;
- Creating a culture at the member universities that emphasizes applied research and the transfer of technology;
- Assessing the performance of technology transfer offices at member universities, in terms of their success in facilitating technology transfer;
- Developing and maintaining an Internet-based database for sharing information on research that is being conducted at universities in the state; and
- Raising funds from nonstate sources to leverage any legislative appropriations.

The committee substitute requires technology transfer offices at member universities to report annually to the consortium board on the office's activities, including information on the achievement of performance measures developed by the board. The committee substitute requires the board, in turn, to report annually to the Legislature on the board's activities and to include in the report any policy recommendations on how to enhance technology transfer.

Section 17 amends s. 445.045, F.S., relating to development of an Internet-based system for information technology industry promotion and workforce recruitment. The committee substitute reassigns responsibility for the development and maintenance of this website to Workforce Florida, Inc. (WFI), from the Department of Labor and Employment Security. The committee substitute also charges WFI with ensuring coordination and compatibility between the website operated under this section and the larger workforce information system required under s. 445.011, F.S. WFI also must coordinate its efforts with the efforts of Enterprise Florida, Inc., to develop a high-technology marketing campaign as required by s. 288.911, F.S. (*See* discussion of section 14 of the committee substitute, above.) In addition, WFI is to work with the State Technology Office to ensure consistency with the state's information system strategy and enterprise architecture. The committee substitute authorizes WFI to contract with public agencies for assistance in developing and maintaining the website, and it also authorizes WFI to procure services necessary to fulfill its responsibilities under this section, provided it utilizes competitive procurement practices.

Section 18 creates a pilot matching grant program to promote internships for financially needy youth between the ages of 15 and 18 with high-technology businesses. One of the stated purposes of the program is to help financially needy youth acquire and develop information technology skills to help close the "digital divide." Under the pilot program, which is to be administered by Workforce Florida, Inc. (WFI), grants may be used to supplement stipends paid to the youth by eligible businesses, provided, however, that the maximum grant amount that may be awarded on behalf of a single eligible youth is \$2,000. The youth must be from a family whose income does not exceed 200 percent of the federal poverty level. To participate in the program, an eligible business must submit a work plan that describes, among other elements, the nature of the work to be performed by the youth, the supervision and training to be provided to the youth, and the prospects for unsubsidized employment of the youth after the internship. One of the factors to be used by WFI in evaluating applications for funding is the potential skills to be gained by the youth – particularly relating to computers and other technologies that may help address the "digital divide."

Section 19 expresses the Legislature's intent to support the creation of joint-use advanced digital-media research and production facilities in Florida, to provide opportunities for collaboration between research and education programs and the digital-media industry. To that end, the committee substitute authorizes the Office of Tourism, Trade, and Economic Development (OTTED) to create a program to facilitate establishment and maintenance of such facilities. OTTED is required to develop a strategic plan addressing the governance and funding of such facilities and may contract for the establishment of the facilities – maximizing the use and integration of existing facilities in the state that would be suitable as advanced digital-media facilities. The committee substitute authorizes funding provided under this section to be used to lease or refurbish existing facilities. Any entity receiving state funds under this program is required to match such funding with non-state sources. In addition, any facility receiving funds

must submit an operating plan to OTTED for approval, which plan must provide for the creation of a tenant association and for the collection of dues from tenants to support operation and maintenance of the facility. The committee substitute authorizes OTTED to identify the specific types of businesses to be included within the meaning of “digital media” for the purposes of this section.

Section 20 provides a \$3 million General Refund Fund appropriation in fiscal year 2001-2002 to OTTED to support the establishment and maintenance of joint-use advanced digital media research and production facilities, as authorized under section 19 of the committee substitute.

Section 21 provides a \$1.5 million General Refund Fund appropriation in fiscal year 2001-2002 to OTTED for use by Enterprise Florida, Inc., in creating and implementing a marketing campaign to promote high-technology business development, as required under s. 288.911, F.S. (*See* section 14 of the committee substitute.)

Section 22 reappropriates to the Department of Revenue for fiscal year 2001-2002 the unexpended balance of funds that the Legislature appropriated in FY 2000-2001 for reimbursing eligible businesses under s. 212.08(5)(p), F.S., for sales taxes paid on equipment purchased in connection with the creation of a network access point.

Section 23 provides that the act takes effect July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This committee substitute initially falls under subsection (b) of s. 18 of Art. VII, Florida Constitution, which requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. By adding an exemption to the state sales tax, this committee substitute has the effect of adding an exemption to the local option county sales surtax. This committee substitute has not been reviewed by the Revenue Estimating Conference. The conference estimated that a similar bill from the 2000 legislative session would result in a local revenue loss of less than \$1.6 million. If this committee substitute similarly had a local loss less than that amount it will be exempt from the requirements of subsection (b) due to an insignificant negative fiscal impact as permitted under subsection (d) of s. 18 of Art. VII, Florida Constitution. (*See* subsection (d) of s. 18, Art. VII, Florida Constitution, for various types of general laws, including those with insignificant fiscal impact.)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The committee substitute provides a sales tax exemption for machinery and equipment used in production and research and development activities related to health technology products and health technology facilities. The committee substitute also provides a sales tax exemption for building materials purchased for use in manufacturing or expanding health-technology-manufacturing facility clean rooms. This committee substitute has not been reviewed by the Revenue Estimating Conference. The sales tax exemption, however, is similar to an exemption proposed in legislation during the 2000 regular session. (*See* House Bill 1573 and Senate Bill 2498 from the 2000 regular session.) The conference estimated that last year's proposal would result in a recurring loss to the General Revenue Fund of \$5.4 million and a recurring loss to local governments of \$0.8 million.

The committee substitute also creates a corporate income tax for employers who pay the matriculation and other fees of employees or potential employees enrolling in approved information technology education programs. The committee substitute provides for an annual cap of \$5 million on the total amount of credits that may be claimed under this program.

The committee substitute also increases the cap to \$35 million from the current level of \$30 million on the total state share of tax refunds that may be scheduled for payment in future fiscal years under the Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs. Tax refund payments under these programs are paid out over a period of years.

B. Private Sector Impact:

This committee substitute contains a number of provisions designed to create a business climate in the state conducive to the retention, growth, and recruitment of high-technology businesses. The precise impact on the private sector is not known.

C. Government Sector Impact:

The precise impact of this committee substitute on the government sector is not known. The measure does require a number of actions by governmental or public-private entities, some of which include requiring:

- The State Board of Education to develop guidelines governing conflicts of interest related to technology transfer at public universities.
- Staff of the Board of Administration to regularly solicit information from Enterprise Florida, Inc. (EFI), on economic development strategies.
- The Office of Student Financial Assistance to adopt rules related to the proposed corporate income tax credit for payment of certain education fees.
- EFI to develop a high-technology marketing campaign.
- Specified universities to participate in a Florida Research Consortium.

- Workforce Florida, Inc. (WFI), to maintain a website promoting the information technology industry and providing for workforce recruitment.
- WFI to administer a grant program for internships for needy youth.

The committee substitute does provide for two appropriations to the Office of Tourism, Trade, and Economic Development from the General Revenue Fund for the 2001-2002 fiscal year: \$3 million for a program to facilitate the establishment and maintenance of joint-use advanced digital-media research and production facilities, and \$1.5 million for use by EFI in creating and implementing a marketing campaign for high-technology industry promotion. The committee substitute also provides for the reappropriation of the unexpended balance of funds that the Legislature appropriated in FY 2000-2001 for reimbursing eligible businesses under s. 212.08(5)(p), F.S., for sales taxes paid on equipment purchased in connection with the creation of a network access point.

VI. Technical Deficiencies:

The committee substitute amends s. 212.08(5)(j)3., F.S., to expand an existing sales tax exemption for building materials used in manufacturing or expanding clean rooms in semiconductor-manufacturing facilities – to include such clean rooms in health-technology-manufacturing facilities. The committee substitute fails, however, to make a conforming revision to the definition of “clean rooms” under s. 212.08(5)(j)9.d., F.S., to reflect the addition of health technology facilities. (*See* page 19, lines 12 through 15, of the committee substitute.)

VII. Related Issues:

None.

VIII. Amendments:

#1 by Finance and Taxation

- Removes the sales tax exemption for manufacturing, R&D, and clean room machinery and equipment for the health technology industry.
- Removes the corporate income tax credit for IT businesses that sponsor employees or prospective employees in approved IT training (and also removes the related conforming provisions from ch. 220, F.S.).
- Removes altogether the proposed Code of Ethics language regarding conflicts of interest for university employees stemming from technology transfer, creating instead, a requirement for the Florida Research Consortium to report by January 1, 2002, on technology transfer issues, including, but not limited to, conflicts of interest.
- Specifies that the Florida Research Consortium shall hold its first meeting by July 1, 2001, and specifies that the provisions creating the consortium and requiring the consortium to report to the Legislature take effect upon the bill becoming a law; the remainder of the bill takes effect July 1, 2001.

- Provides specific powers to the Board of Regents and the State Board of Community Colleges for use in implementing the computer-assisted student advising system.
- Conforms the bill to the House bill in terms of the codes used to identify the information technology industry for purposes of industrial development bond financing (switching from SIC codes to NAICS codes).
- Provides a \$100,000 General Revenue appropriation for the Florida Research Consortium and a \$200,000 TANF appropriation for the internship program for needy youth.
- Makes a number of technical corrections (for example, changes references in the section relating to Florida Retirement System investments from “State Board of Administration” to “Board of Administration” to be consistent with existing statutory provisions).
(WITH TITLE AMENDMENT)

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
