

By the Committee on Commerce

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1 A bill to be entitled
2 An act relating to qualified target industry tax
3 refund program; amending s. 288.106, F.S.; providing
4 legislative findings and declarations for the tax
5 refund program for qualified target industry
6 businesses; revising the definitions of terms
7 applicable to the program; revising the criteria for
8 the Office of Tourism, Trade, and Economic Development
9 and Enterprise Florida, Inc., to use in identifying
10 target industry businesses; conforming cross-
11 references to changes made by the act; deleting ad
12 valorem taxes from the types of taxes that may be
13 refunded under the program; requiring an application
14 for certification as a qualified target industry
15 business to include an estimate of the proportion of
16 the machinery, equipment, and other resources that
17 will be used in the applicant's proposed operation in
18 Florida and purchased by the applicant outside the
19 state; requiring the Office of Tourism, Trade, and
20 Economic Development to consider the state's return on
21 investment in evaluating applicants for the tax refund
22 program; redesignating the economic-stimulus exemption
23 as the "economic recovery extension"; extending the
24 date by which a qualified target industry business may
25 request an economic recovery extension; authorizing
26 the Office of Tourism, Trade, and Economic Development
27 to waive the requirement for a business to annually
28 provide proof of taxes paid if the business provides
29 proof that it has paid certain taxes in amounts at

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30 least equal to the total amount of refunds for which
31 the business is eligible; requiring the Office of
32 Tourism, Trade, and Economic Development to conduct a
33 review of certain qualified target industry businesses
34 that have received their final tax refund and provide
35 a report of its findings and recommendations to the
36 Governor, the President of the Senate, and the Speaker
37 of the House of Representatives; extending the date by
38 which businesses may apply to participate in the tax
39 refund program for qualified target industry
40 businesses; amending ss. 288.107 and 290.00677, F.S.;
41 conforming cross-references to changes made by the
42 act; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Section 288.106, Florida Statutes, is amended,
47 and subsection (2) of that section is reordered, to read:

48 288.106 Tax refund program for qualified target industry
49 businesses.-

50 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.-The Legislature
51 finds that retaining and expanding existing businesses in
52 Florida, encouraging the creation of new businesses in Florida,
53 attracting new businesses from out of state, and generally
54 providing conditions favorable for the growth of target
55 industries creates high-quality, high-wage employment
56 opportunities for the residents of this state and strengthens
57 Florida's economic foundation. The Legislature also finds that
58 incentives that are narrowly focused in application and scope

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59 tend to be more effective at achieving the state's economic-
60 development goals. Further, the Legislature finds that higher-
61 wage jobs reduce the state's share of hidden costs such as
62 public assistance and subsidized health care associated with
63 low-wage jobs. Therefore, the Legislature declares that it is
64 the policy of this state to encourage the growth of higher-wage
65 jobs and a diverse economic base by providing state tax refunds
66 to qualified target industry businesses that originate or expand
67 in this state or that relocate to this state.

68 (2)~~(1)~~ DEFINITIONS.—As used in this section:

69 (a) "Account" means the Economic Development Incentives
70 Account within the Economic Development Trust Fund established
71 under s. 288.095.

72 (c)~~(b)~~ "Average private sector wage ~~in the area~~" means ~~the~~
73 ~~statewide private sector average wage or~~ the average of all
74 private sector wages and salaries in the county or in the
75 standard metropolitan area in which the business is located.

76 (d)~~(e)~~ "Business" means an employing unit, as defined in s.
77 443.036, which is registered for unemployment compensation
78 purposes with the state agency providing unemployment tax
79 collection services under contract with the Agency for Workforce
80 Innovation through an interagency agreement pursuant to s.
81 443.1316, or a subcategory or division of an employing unit
82 which is accepted by the state agency providing unemployment tax
83 collection services as a reporting unit.

84 (e)~~(d)~~ "Corporate headquarters business" means an
85 international, national, or regional headquarters office of a
86 multinational or multistate business enterprise or national
87 trade association, whether separate from or connected with other

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88 facilities used by such business.

89 (n)~~(e)~~ "Office" means the Office of Tourism, Trade, and
90 Economic Development.

91 (g)~~(f)~~ "Enterprise zone" means an area designated as an
92 enterprise zone pursuant to s. 290.0065.

93 (h)~~(g)~~ "Expansion of an existing business" means the
94 expansion of an existing Florida business by or through
95 additions to real and personal property, resulting in a net
96 increase in employment of not less than 10 percent at such
97 business.

98 (i)~~(h)~~ "Fiscal year" means the fiscal year of the state.

99 (j)~~(i)~~ "Jobs" means full-time equivalent positions, as that
100 term is consistent with terms used by the Agency for Workforce
101 Innovation and the United States Department of Labor for
102 purposes of unemployment compensation tax administration and
103 employment estimation, resulting directly from a project in this
104 state. The term does not include temporary construction jobs
105 involved with the construction of facilities for the project or
106 any jobs previously included in any application for tax refunds
107 under s. 288.1045 or this section.

108 (k)~~(j)~~ "Local financial support" means funding from local
109 sources, public or private, which is paid to the Economic
110 Development Trust Fund and which is equal to 20 percent of the
111 annual tax refund for a qualified target industry business. A
112 qualified target industry business may not provide, directly or
113 indirectly, more than 5 percent of such funding in any fiscal
114 year. The sources of such funding may not include, directly or
115 indirectly, state funds appropriated from the General Revenue
116 Fund or any state trust fund, excluding tax revenues shared with

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117 local governments pursuant to law.

118 (l)~~(k)~~ "Local financial support exemption option" means the
119 option to exercise an exemption from the local financial support
120 requirement available to any applicant whose project is located
121 in a brownfield area or a rural community ~~county with a~~
122 ~~population of 75,000 or fewer or a county with a population of~~
123 ~~125,000 or fewer which is contiguous to a county with a~~
124 ~~population of 75,000 or fewer.~~ Any applicant that exercises this
125 option is ~~shall~~ not be eligible for more than 80 percent of the
126 total tax refunds allowed such applicant under this section.

127 (m)~~(l)~~ "New business" means a business that applies for the
128 qualified target industry refund program before beginning
129 operations ~~which heretofore did not exist in this state, first~~
130 ~~beginning operations on a site located in this state and is a~~
131 ~~clearly~~ separate legal entity from any other commercial or
132 industrial operations owned by the same business.

133 (o)~~(m)~~ "Project" means the creation of a new business or
134 expansion of an existing business.

135 (f)~~(n)~~ "Director" means the Director of the Office of
136 Tourism, Trade, and Economic Development.

137 (t)~~(e)~~ "Target industry business" means a corporate
138 headquarters business or any business that is engaged in one of
139 the target industries identified pursuant to the following
140 criteria developed by the office in consultation with Enterprise
141 Florida, Inc.:

142 1. Future growth.—Industry forecasts should indicate strong
143 expectation for future growth in both employment and output,
144 according to the most recent available data. Preference ~~Special~~
145 ~~consideration~~ should be given to businesses that export goods or

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146 services ~~Florida's growing access~~ to international markets or to
147 businesses that replace domestic and international ~~replacing~~
148 imports of goods or services.

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

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

157 4. Market and resource independent.—The location of
158 industry businesses should not be dependent on Florida markets
159 or resources as indicated by industry analysis, with the
160 exception of businesses in the renewable-energy industry.
161 ~~Special consideration should be given to the development of~~
162 ~~strong industrial clusters which include defense and homeland~~
163 ~~security businesses.~~

164 5. Industrial base diversification and strengthening.—The
165 industry should contribute toward expanding or diversifying the
166 state's or area's economic base, as indicated by analysis of
167 employment and output shares compared to national and regional
168 trends. Preference ~~Special consideration~~ should be given to
169 industries that strengthen regional economies by adding value to
170 basic products or building regional industrial clusters as
171 indicated by industry analysis. Additionally, preference should
172 be given to the development of strong industrial clusters that
173 include defense and homeland security businesses.

174 6. Economic benefits.—The industry is expected to ~~should~~

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175 have strong positive impacts on or benefits to the state or ~~and~~
 176 regional economies.

177

178 The office, in consultation with Enterprise Florida, Inc., shall
 179 develop a list of such target industries annually and submit
 180 such list as part of the final agency legislative budget request
 181 submitted pursuant to s. 216.023(1). A target industry business
 182 may not include any industry engaged in retail activities; any
 183 electrical utility company; any phosphate or other solid
 184 minerals severance, mining, or processing operation; any oil or
 185 gas exploration or production operation; or any business ~~firm~~
 186 subject to regulation by the Division of Hotels and Restaurants
 187 of the Department of Business and Professional Regulation.

188 (u) ~~(p)~~ "Taxable year" means taxable year as defined in s.
 189 220.03(1)(y).

190 (p) ~~(q)~~ "Qualified target industry business" means a target
 191 industry business that has been approved by the director to be
 192 eligible for tax refunds pursuant to this section.

193 (q) "Return on investment" means the gain in state revenues
 194 as a percentage of the state's investment. The state's
 195 investment includes state grants, tax exemptions, tax refunds,
 196 tax credits, and other state incentives. Return on investment is
 197 expressed mathematically as follows:

198

199 Return on investment = (gain in state revenues - state's
 200 investment)/state's investment

201

202 ~~(r)~~ "Rural county" means a county with a population of
 203 75,000 or fewer or a county with a population of 100,000 or

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204 ~~fewer which is contiguous to a county with a population of~~
 205 ~~75,000 or fewer.~~

206 (r)~~(s)~~ "Rural city" means a city having ~~with~~ a population
 207 of 10,000 or fewer ~~less~~, or a city having ~~with~~ a population of
 208 greater than 10,000 but fewer ~~less~~ than 20,000 which has been
 209 determined by the office ~~of Tourism, Trade, and Economic~~
 210 ~~Development~~ to have economic characteristics such as, but not
 211 limited to, a significant percentage of residents on public
 212 assistance, a significant percentage of residents with income
 213 below the poverty level, or a significant percentage of the
 214 city's employment base in agriculture-related industries.

215 (s)~~(t)~~ "Rural community" means:

216 1. A county having ~~with~~ a population of 75,000 or fewer.

217 2. A county having ~~with~~ a population of 125,000 or fewer
 218 which is contiguous to a county having ~~with~~ a population of
 219 75,000 or fewer.

220 3. A municipality within a county described in subparagraph
 221 1. or subparagraph 2.

222
 223 For purposes of this paragraph, population shall be determined
 224 in accordance with the most recent official estimate pursuant to
 225 s. 186.901.

226 (b)~~(u)~~ "Authorized local economic development agency" means
 227 a ~~any~~ public or private entity, including those defined in s.
 228 288.075, authorized by a county or municipality to promote the
 229 general business or industrial interests of that county or
 230 municipality.

231 (3)~~(2)~~ TAX REFUND; ELIGIBLE AMOUNTS.—

232 (a) There shall be allowed, from the account, a refund to a

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233 qualified target industry business for the amount of eligible
234 taxes certified by the director which were paid by the such
235 business. The total amount of refunds for all fiscal years for
236 each qualified target industry business must be determined
237 pursuant to subsection (4) ~~(3)~~. The annual amount of a refund to
238 a qualified target industry business must be determined pursuant
239 to subsection (6) ~~(5)~~.

240 (b)1. Upon approval by the director, a qualified target
241 industry business shall be allowed tax refund payments equal to
242 \$3,000 times the number of jobs specified in the tax refund
243 agreement under subparagraph (5) (a)1. ~~(4) (a)1.~~, or equal to
244 \$6,000 times the number of jobs if the project is located in a
245 rural county or an enterprise zone.

246 2. ~~Further,~~ A qualified target industry business shall be
247 allowed additional tax refund payments equal to \$1,000 times the
248 number of jobs specified in the tax refund agreement under
249 subparagraph (5) (a)1. ~~(4) (a)1.~~, if such jobs pay an annual
250 average wage of at least 150 percent of the average area private
251 sector wage ~~in the area~~, or equal to \$2,000 times the number of
252 jobs if such jobs pay an annual average area wage of at least
253 200 percent of the average area private sector wage ~~in the area~~.

254 (c) A qualified target industry business may not receive
255 refund payments of more than 25 percent of the total tax refunds
256 specified in the tax refund agreement under subparagraph
257 (5) (a)1. ~~(4) (a)1.~~ in any fiscal year. Further, a qualified
258 target industry business may not receive more than \$1.5 million
259 in refunds under this section in any single fiscal year, or more
260 than \$2.5 million in any single fiscal year if the project is
261 located in an enterprise zone. A qualified target industry

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262 business may not receive more than \$5 million in refund payments
263 under this section in all fiscal years, or more than \$7.5
264 million if the project is located in an enterprise zone. ~~Funds~~
265 ~~made available pursuant to this section may not be expended in~~
266 ~~connection with the relocation of a business from one community~~
267 ~~to another community in this state unless the Office of Tourism,~~
268 ~~Trade, and Economic Development determines that without such~~
269 ~~relocation the business will move outside this state or~~
270 ~~determines that the business has a compelling economic rationale~~
271 ~~for the relocation and that the relocation will create~~
272 ~~additional jobs.~~

273 (d) ~~(e)~~ After entering into a tax refund agreement under
274 subsection (5) ~~(4)~~, a qualified target industry business may:

275 1. Receive refunds from the account for the following taxes
276 due and paid by that business beginning with the first taxable
277 year of the business which begins after entering into the
278 agreement:

279 a. Corporate income taxes under chapter 220.

280 b. Insurance premium tax under s. 624.509.

281 2. Receive refunds from the account for the following taxes
282 due and paid by that business after entering into the agreement:

283 a. Taxes on sales, use, and other transactions under
284 chapter 212.

285 b. Intangible personal property taxes under chapter 199.

286 c. Emergency excise taxes under chapter 221.

287 d. Excise taxes on documents under chapter 201.

288 ~~e. Ad valorem taxes paid, as defined in s. 220.03(1).~~

289 e.f. State communications services taxes administered under
290 chapter 202. This provision does not apply to the gross receipts

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291 tax imposed under chapter 203 and administered under chapter 202
292 or the local communications services tax authorized under s.
293 202.19.

294
295 ~~The addition of state communications services taxes administered~~
296 ~~under chapter 202 is remedial in nature and retroactive to~~
297 ~~October 1, 2001. The office may make supplemental tax refund~~
298 ~~payments to allow for tax refunds for communications services~~
299 ~~taxes paid by an eligible qualified target industry business~~
300 ~~after October 1, 2001.~~

301 (e) ~~(d)~~ However, a qualified target industry business may
302 not receive a refund under this section for any amount of
303 credit, refund, or exemption granted to that business for any of
304 the such taxes listed in paragraph (d). If a refund for such
305 taxes is provided by the office, which taxes are subsequently
306 adjusted by the application of any credit, refund, or exemption
307 granted to the qualified target industry business other than as
308 provided in this section, the business shall reimburse the
309 account for the amount of that credit, refund, or exemption. A
310 qualified target industry business shall notify and tender
311 payment to the office within 20 days after receiving any credit,
312 refund, or exemption other than one provided in this section.

313 (f) Refunds made available pursuant to this section may not
314 be expended in connection with the relocation of a business from
315 one community to another community in this state unless the
316 office determines that without such relocation the business will
317 move outside this state, or determines that the business has a
318 compelling economic rationale for the relocation and that the
319 relocation will create additional jobs.

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320 (g)~~(e)~~ A qualified target industry business that
321 fraudulently claims a refund under this section:

322 1. Is liable for repayment of the amount of the refund to
323 the account, plus a mandatory penalty in the amount of 200
324 percent of the tax refund which shall be deposited into the
325 General Revenue Fund.

326 2. Commits ~~is guilty of~~ a felony of the third degree,
327 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

328 (4)~~(3)~~ APPLICATION AND APPROVAL PROCESS.—

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

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

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

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

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349 Executive Office of the President, and updated periodically.

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

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

359 6. The anticipated commencement date of the project.

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

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

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

370 10.9. A resolution adopted by the governing board of the
371 county or municipality in which the project will be located,
372 which ~~resolution~~ recommends that the project ~~certain types of~~
373 ~~businesses~~ be approved as a qualified target industry business
374 and specifies ~~states~~ that ~~the~~ commitments of local financial
375 support necessary for the target industry business exist. In
376 advance of the passage of such resolution, the office may also
377 accept an official letter from an authorized local economic

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378 development agency that endorses the proposed target industry
 379 project and pledges that sources of local financial support for
 380 such project exist. For the purposes of making pledges of local
 381 financial support under this subsection, the authorized local
 382 economic development agency shall be officially designated by
 383 the passage of a one-time resolution by the local governing
 384 authority.

385 ~~11.10.~~ Any additional information requested by the office.

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

389 1.a. The jobs proposed to be created ~~provided~~ under the
 390 application, pursuant to subparagraph (a)4., must pay an
 391 estimated annual average wage equaling at least 115 percent of
 392 the average area private sector wage ~~in the area~~ where the
 393 business is to be located ~~or the statewide private sector~~
 394 ~~average wage~~. In determining the average annual wage, the office
 395 shall include only new proposed jobs, and wages for existing
 396 jobs shall be excluded from this calculation.

397 b. The office may waive the average wage requirement at the
 398 request of the local governing body recommending the project and
 399 Enterprise Florida, Inc. The director may waive the wage
 400 requirement ~~may only be waived~~ for a project located in a
 401 brownfield area designated under s. 376.80 or in a rural city,
 402 rural community, ~~or county,~~ or ~~in an~~ enterprise zone ~~and only if~~
 403 ~~when~~ the merits of the individual project or the specific
 404 circumstances in the community in relationship to the project
 405 warrant such action. If the local governing body and Enterprise
 406 Florida, Inc., make such a recommendation, it must be

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407 transmitted in writing and the specific justification for the
408 waiver recommendation must be explained. If the director elects
409 to waive the wage requirement, the waiver must be stated in
410 writing and the reasons for granting the waiver must be
411 explained.

412 2. The target industry business's project must result in
413 the creation of at least 10 jobs at the ~~such~~ project and, if an
414 expansion of an existing business, must result in an a net
415 increase in employment of at least 10 percent at the business.
416 ~~Notwithstanding the definition of the term "expansion of an~~
417 ~~existing business" in paragraph (1)(g),~~ At the request of the
418 local governing body recommending the project and Enterprise
419 Florida, Inc., the office may waive this requirement for a
420 business in a rural community or enterprise zone ~~define an~~
421 ~~"expansion of an existing business" in a rural community or an~~
422 ~~enterprise zone as the expansion of a business resulting in a~~
423 ~~net increase in employment of less than 10 percent at such~~
424 ~~business~~ if the merits of the individual project or the specific
425 circumstances in the community in relationship to the project
426 warrant such action. If the local governing body and Enterprise
427 Florida, Inc., make such a request, the request must be
428 transmitted in writing and the specific justification for the
429 request must be explained. If the director elects to grant the
430 request, the grant must be stated in writing and the reason for
431 granting the request must be explained.

432 3. The business activity or product for the applicant's
433 project is within an industry ~~or industries that have been~~
434 identified by the office as a target industry business ~~to be~~
435 ~~high value added industries that~~ contributes ~~contribute to the~~

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436 ~~area and~~ to the economic growth of the state and the region in
437 which it is located, that produces ~~produce~~ a higher standard of
438 living for residents of this state in the new global economy, or
439 that can be shown to make an equivalent contribution to the area
440 and state's economic progress. ~~The director must approve~~
441 ~~requests to waive the wage requirement for brownfield areas~~
442 ~~designated under s. 376.80 unless it is demonstrated that such~~
443 ~~action is not in the public interest.~~

444 (c) Each application meeting the requirements of paragraph
445 (b) must be submitted to the office for determination of
446 eligibility. The office shall review and evaluate each
447 application based on, but not limited to, the following
448 criteria:

449 1. Expected contributions to the state economy, consistent
450 with the state strategic economic development plan adopted by
451 Enterprise Florida, Inc., ~~taking into account the long term~~
452 ~~effects of the project and of the applicant on the state~~
453 ~~economy.~~

454 2. The return on investment of the proposed award under the
455 qualified target industry incentive program and the return on
456 investment for all state incentives proposed for the project
457 ~~economic benefit of the jobs created by the project in this~~
458 ~~state, taking into account the cost and average wage of each job~~
459 ~~created.~~

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

462 4. The local financial commitment and support for the
463 project.

464 5. The effect of the project on the unemployment rate in

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465 ~~local community, taking into account the unemployment rate for~~
466 the county where the project will be located.

467 6. The effect of the award ~~any tax refunds granted pursuant~~
468 ~~to this section~~ on the viability of the project and the
469 probability that the project would ~~will~~ be undertaken in this
470 state if such tax refunds are granted to the applicant, ~~taking~~
471 ~~into account the expected long-term commitment of the applicant~~
472 ~~to economic growth and employment in this state.~~

473 7. The expected long-term commitment of the applicant to
474 economic growth and employment to this state resulting from the
475 project.

476 8. A review of the business's past activities in this state
477 or other states, including whether such business has been
478 subjected to criminal or civil fines and penalties. This
479 subparagraph does not require the disclosure of confidential
480 information.

481 (d) Applications shall be reviewed and certified pursuant
482 to s. 288.061. The office shall include in its review
483 projections of the tax refunds the business would be eligible to
484 receive in each fiscal year based on the creation and
485 maintenance of the net new Florida jobs specified in
486 subparagraph (a)4. as of December 31 of the preceding state
487 fiscal year. If appropriate, the director shall enter into a
488 written agreement with the qualified target industry business
489 pursuant to subsection (5) ~~(4)~~.

490 (e) The director may not certify any target industry
491 business as a qualified target industry business if the value of
492 tax refunds to be included in that letter of certification
493 exceeds the available amount of authority to certify new

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494 businesses as determined in s. 288.095(3). However, if the
495 commitments of local financial support represent less than 20
496 percent of the eligible tax refund payments, or to otherwise
497 preserve the viability and fiscal integrity of the program, the
498 director may certify a qualified target industry business to
499 receive tax refund payments of less than the allowable amounts
500 specified in paragraph (3) (b) ~~(2) (b)~~. A letter of certification
501 that approves an application must specify the maximum amount of
502 tax refund that will be available to the qualified industry
503 business in each fiscal year and the total amount of tax refunds
504 that will be available to the business for all fiscal years.

505 (f) This section does not create a presumption that an
506 applicant shall receive any tax refunds under this section.
507 However, the office may issue nonbinding opinion letters, upon
508 the request of prospective applicants, as to the applicants'
509 eligibility and the potential amount of refunds.

510 (5) ~~(4)~~ TAX REFUND AGREEMENT.—

511 (a) Each qualified target industry business must enter into
512 a written agreement with the office which specifies, at a
513 minimum:

514 1. The total number of full-time equivalent jobs in this
515 state that will be dedicated to the project, the average wage of
516 those jobs, the definitions that will apply for measuring the
517 achievement of these terms during the pendency of the agreement,
518 and a time schedule or plan for when such jobs will be in place
519 and active in this state.

520 2. The maximum amount of tax refunds which the qualified
521 target industry business is eligible to receive on the project
522 and the maximum amount of a tax refund that the qualified target

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523 industry business is eligible to receive for each fiscal year,
524 based on the job creation and maintenance schedule specified in
525 subparagraph 1.

526 3. That the office may review and verify the financial and
527 personnel records of the qualified target industry business to
528 ascertain whether that business is in compliance with this
529 section.

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

534 5. That local financial support will be annually available
535 and will be paid to the account. The director may not enter into
536 a written agreement with a qualified target industry business if
537 the local financial support resolution is not passed by the
538 local governing authority within 90 days after he or she has
539 issued the letter of certification under subsection (4) ~~(3)~~.

540 (b) Compliance with the terms and conditions of the
541 agreement is a condition precedent for the receipt of a tax
542 refund each year. The failure to comply with the terms and
543 conditions of the tax refund agreement results in the loss of
544 eligibility for receipt of all tax refunds previously authorized
545 under this section and the revocation by the director of the
546 certification of the business entity as a qualified target
547 industry business, unless the business is eligible to receive
548 and elects to accept a prorated refund under paragraph (6) (e)
549 ~~(5) (d)~~ or the office grants the business an economic recovery
550 extension ~~economic-stimulus-exemption~~.

551 1. A qualified target industry business may submit, ~~in~~

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552 ~~writing,~~ a request to the office for an economic recovery
553 extension ~~economic-stimulus-exemption~~. The request must provide
554 quantitative evidence demonstrating how negative economic
555 conditions in the business's industry, the effects of the impact
556 of a named hurricane or tropical storm, or specific acts of
557 terrorism affecting the qualified target industry business have
558 prevented the business from complying with the terms and
559 conditions of its tax refund agreement.

560 2. Upon receipt of a request under subparagraph 1., the
561 director ~~has~~ shall have 45 days to notify the requesting
562 business, in writing, if its extension ~~exemption~~ has been
563 granted or denied. In determining if an extension ~~exemption~~
564 should be granted, the director shall consider the extent to
565 which negative economic conditions in the requesting business's
566 industry have occurred in the state or the effects of the impact
567 of a named hurricane or tropical storm or specific acts of
568 terrorism affecting the qualified target industry business have
569 prevented the business from complying with the terms and
570 conditions of its tax refund agreement. The office shall
571 consider current employment statistics for this state by
572 industry, including whether the business's industry had
573 substantial job loss during the prior year, when determining
574 whether an extension ~~exemption~~ shall be granted.

575 3. As a condition for receiving a prorated refund under
576 paragraph (6) (e) ~~(5) (d)~~ or an economic recovery extension
577 ~~economic-stimulus-exemption~~ under this paragraph, a qualified
578 target industry business must agree to renegotiate its tax
579 refund agreement with the office to, at a minimum, ensure that
580 the terms of the agreement comply with current law and office

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581 procedures governing application for and award of tax refunds.
582 Upon approving the award of a prorated refund or granting an
583 economic recovery extension ~~economic-stimulus exemption~~, the
584 office shall renegotiate the tax refund agreement with the
585 business as required by this subparagraph. When amending the
586 agreement of a business receiving an economic recovery extension
587 ~~economic-stimulus exemption~~, the office may extend the duration
588 of the agreement for a period not to exceed 2 years.

589 4. A qualified target industry business may submit a
590 request for an economic recovery extension ~~economic-stimulus~~
591 ~~exemption~~ to the office in lieu of any tax refund claim
592 scheduled to be submitted after January 1, 2009, but before July
593 1, 2012 ~~2011~~.

594 5. A qualified target industry business that receives an
595 economic recovery extension ~~economic-stimulus exemption~~ may not
596 receive a tax refund for the period covered by the exemption.

597 (c) The agreement must be signed by the director and by an
598 authorized officer of the qualified target industry business
599 within 120 days after the issuance of the letter of
600 certification under subsection (4) ~~(3)~~, but not before passage
601 and receipt of the resolution of local financial support. The
602 office may grant an extension of this period at the written
603 request of the qualified target industry business.

604 (d) The agreement must contain the following legend,
605 clearly printed on its face in bold type of not less than 10
606 points in size: "This agreement is neither a general obligation
607 of the State of Florida, nor is it backed by the full faith and
608 credit of the State of Florida. Payment of tax refunds is ~~are~~
609 conditioned on and subject to specific annual appropriations by

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610 the Florida Legislature ~~of moneys~~ sufficient to pay amounts
611 authorized in section 288.106, Florida Statutes."

612 (6) ~~(5)~~ ANNUAL CLAIM FOR REFUND.-

613 (a) To be eligible to claim any scheduled tax refund, a
614 qualified target industry business that has entered into a tax
615 refund agreement with the office under subsection (5) ~~(4)~~ must
616 apply by January 31 of each fiscal year to the office for the
617 tax refund scheduled to be paid from the appropriation for the
618 fiscal year that begins on July 1 following the January 31
619 claims-submission date. The office may, upon written request,
620 grant a 30-day extension of the filing date.

621 (b) The claim for refund by the qualified target industry
622 business must include a copy of all receipts pertaining to the
623 payment of taxes for which the refund is sought and data related
624 to achievement of each performance item specified in the tax
625 refund agreement. The amount requested as a tax refund may not
626 exceed the amount specified for the relevant fiscal year in that
627 agreement.

628 (c) If the qualified target industry business provides the
629 office with proof that in a single year it has paid an amount of
630 state taxes, from the categories in paragraph (3)(d), which is
631 at least equal to the total amount of tax refunds it may receive
632 through successful completion of its qualified target industry
633 agreement, the office may waive the requirement for proof of
634 taxes paid in future years.

635 (d) ~~(e)~~ A tax refund may not be approved for a qualified
636 target industry business unless the required local financial
637 support has been paid into the account for that refund. If the
638 local financial support provided is less than 20 percent of the

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639 approved tax refund, the tax refund must be reduced. In no event
640 may the tax refund exceed an amount that is equal to 5 times the
641 amount of the local financial support received. Further, funding
642 from local sources includes any tax abatement granted to that
643 business under s. 196.1995 or the appraised market value of
644 municipal or county land conveyed or provided at a discount to
645 that business. The amount of any tax refund for such business
646 approved under this section must be reduced by the amount of any
647 such tax abatement granted or the value of the land granted; and
648 the limitations in subsection (3) ~~(2)~~ and paragraph (4) (e)
649 ~~(3) (e)~~ must be reduced by the amount of any such tax abatement
650 or the value of the land granted. A report listing all sources
651 of the local financial support shall be provided to the office
652 when such support is paid to the account.

653 (e) ~~(d)~~ A prorated tax refund, less a 5 percent ~~5-percent~~
654 penalty, shall be approved for a qualified target industry
655 business if provided all other applicable requirements have been
656 satisfied and the business proves to the satisfaction of the
657 director that:

658 1. It has achieved at least 80 percent of its projected
659 employment; ~~and that~~

660 2. The average wage paid by the business is at least 90
661 percent of the average wage specified in the tax refund
662 agreement, but in no case less than 115 percent of the average
663 private sector wage in the area available at the time of
664 certification, or 150 percent or 200 percent of the average
665 private sector wage if the business requested the additional
666 per-job tax refund authorized in paragraph (3) (b) ~~(2) (b)~~ for
667 wages above those levels.

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668
669 The prorated tax refund shall be calculated by multiplying the
670 tax refund amount for which the qualified target industry
671 business would have been eligible, if all applicable
672 requirements had been satisfied, by the percentage of the
673 average employment specified in the tax refund agreement which
674 was achieved, and by the percentage of the average wages
675 specified in the tax refund agreement which was achieved.

676 (f)~~(e)~~ The director, with such assistance as may be
677 required from the office, the Department of Revenue, or the
678 Agency for Workforce Innovation, shall, by June 30 following the
679 scheduled date for submission of the tax refund claim, specify
680 by written order the approval or disapproval of the tax refund
681 claim and, if approved, the amount of the tax refund that is
682 authorized to be paid to the qualified target industry business
683 for the annual tax refund. The office may grant an extension of
684 this date on the request of the qualified target industry
685 business for the purpose of filing additional information in
686 support of the claim.

687 (g)~~(f)~~ The total amount of tax refund claims approved by
688 the director under this section in any fiscal year must not
689 exceed the amount authorized under s. 288.095(3).

690 (h)~~(g)~~ This section does not create a presumption that a
691 tax refund claim will be approved and paid.

692 (i)~~(h)~~ Upon approval of the tax refund under paragraphs
693 ~~(e)~~, (d), ~~and (e)~~, and (f), the Chief Financial Officer shall
694 issue a warrant for the amount specified in the written order.
695 If the written order is appealed, the Chief Financial Officer
696 may not issue a warrant for a refund to the qualified target

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697 industry business until the conclusion of all appeals of that
698 order.

699 (7) ~~(6)~~ ADMINISTRATION.—

700 (a) The office may ~~is authorized to~~ verify information
701 provided in any claim submitted for tax credits under this
702 section with regard to employment and wage levels or the payment
703 of the taxes to the appropriate agency or authority, including
704 the Department of Revenue, the Agency for Workforce Innovation,
705 or any local government or authority.

706 (b) To facilitate the process of monitoring and auditing
707 applications made under this program, the office may provide a
708 list of qualified target industry businesses to the Department
709 of Revenue, to the Agency for Workforce Innovation, or to any
710 local government or authority. The office may request the
711 assistance of those entities with respect to monitoring jobs,
712 wages, and the payment of the taxes listed in subsection (3)
713 ~~(2)~~.

714 (c) Funds specifically appropriated for the tax refund
715 program for qualified target industry businesses may not be used
716 by the office for any purpose other than the payment of tax
717 refunds authorized by this section.

718 (d) For all agreements signed after January 1, 2006, the
719 office shall conduct a review of each qualified target industry
720 business within 12 months after such business has submitted its
721 final incentive refund request in order to evaluate whether the
722 business is continuing to contribute to the regional or state
723 economy. To complete the review, the office shall examine the
724 size of each business's workforce, the annual average wage of
725 its employees, whether the business has made additional

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726 investments in its operations since the completion of its
727 agreement, and whether the business has expanded into additional
728 locations. The office shall submit a report of its findings and
729 recommendations from its review to the Governor, the President
730 of the Senate, and the Speaker of the House of Representatives.
731 The first report shall be submitted by December 1, 2011, and
732 each December 1 thereafter.

733 ~~(7) Notwithstanding paragraphs (4) (a) and (5) (c), the~~
734 ~~office may approve a waiver of the local financial support~~
735 ~~requirement for a business located in any of the following~~
736 ~~counties in which businesses received emergency loans~~
737 ~~administered by the office in response to the named hurricanes~~
738 ~~of 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler,~~
739 ~~Glades, Hardee, Hendry, Highlands, Indian River, Lake, Lee,~~
740 ~~Martin, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk,~~
741 ~~Putnam, Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A~~
742 ~~waiver may be granted only if the office determines that the~~
743 ~~local financial support cannot be provided or that doing so~~
744 ~~would effect a demonstrable hardship on the unit of local~~
745 ~~government providing the local financial support. If the office~~
746 ~~grants a waiver of the local financial support requirement, the~~
747 ~~state shall pay 100 percent of the refund due to an eligible~~
748 ~~business. The waiver shall apply for tax refund applications~~
749 ~~made for fiscal years 2004-2005, 2005-2006, and 2006-2007.~~

750 (8) EXPIRATION.—An applicant may not be certified as
751 qualified under this section after June 30, 2015 ~~2010~~. A tax
752 refund agreement existing on that date shall continue in effect
753 in accordance with its terms.

754 Section 2. Paragraph (e) of subsection (1), subsection (2),

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755 paragraphs (a) and (d) of subsection (4), and paragraph (b) of
756 subsection (5) of section 288.107, Florida Statutes, are amended
757 to read:

758 288.107 Brownfield redevelopment bonus refunds.—

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

760 (e) "Eligible business" means:

761 1. A qualified target industry business as defined in s.
762 288.106(2) ~~s. 288.106(1)(e)~~; or

763 2. A business that can demonstrate a fixed capital
764 investment of at least \$2 million in mixed-use business
765 activities, including multiunit housing, commercial, retail, and
766 industrial in brownfield areas, or at least \$500,000 in
767 brownfield areas that do not require site cleanup, and which
768 provides benefits to its employees.

769 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—Bonus refunds
770 shall be approved by the office as specified in the final order
771 issued by the director and allowed from the account as follows:

772 (a) A bonus refund of \$2,500 shall be allowed to any
773 qualified target industry business as defined by s. 288.106 for
774 each new Florida job created in a brownfield area which is
775 claimed on the qualified target industry business's annual
776 refund claim authorized in s. 288.106(6) ~~s. 288.106(5)~~.

777 (b) A bonus refund of up to \$2,500 shall be allowed to any
778 other eligible business as defined in subparagraph (1)(e)2. for
779 each new Florida job created in a brownfield which is claimed
780 under an annual claim procedure similar to the annual refund
781 claim authorized in s. 288.106(6) ~~s. 288.106(5)~~. The amount of
782 the refund shall be equal to 20 percent of the average annual
783 wage for the jobs created.

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784 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—

785 (a) To be eligible to receive a bonus refund for new
 786 Florida jobs created in a brownfield, a business must have been
 787 certified as a qualified target industry business under s.
 788 288.106 or eligible business as defined in paragraph (1)(e) and
 789 must have indicated on the qualified target industry tax refund
 790 application form submitted in accordance with s. 288.106(4) ~~s.~~
 791 ~~288.106(3)~~ or other similar agreement for other eligible
 792 business as defined in paragraph (1)(e) that the project for
 793 which the application is submitted is or will be located in a
 794 brownfield and that the business is applying for certification
 795 as a qualified brownfield business under this section, and must
 796 have signed a qualified target industry tax refund agreement
 797 with the office which indicates that the business has been
 798 certified as a qualified target industry business located in a
 799 brownfield and specifies the schedule of brownfield
 800 redevelopment bonus refunds that the business may be eligible to
 801 receive in each fiscal year.

802 (d) After entering into a tax refund agreement as provided
 803 in s. 288.106 or other similar agreement for other eligible
 804 businesses as defined in paragraph (1)(e), an eligible business
 805 may receive brownfield redevelopment bonus refunds from the
 806 account pursuant to s. 288.106(3)(d) ~~s. 288.106(2)(c)~~.

807 (5) ADMINISTRATION.—

808 (b) To facilitate the process of monitoring and auditing
 809 applications made under this program, the office may provide a
 810 list of qualified target industry businesses to the Department
 811 of Revenue, to the Agency for Workforce Innovation, to the
 812 Department of Environmental Protection, or to any local

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813 government authority. The office may request the assistance of
814 those entities with respect to monitoring the payment of the
815 taxes listed in s. 288.106(3) ~~s. 288.106(2)~~.

816 Section 3. Section 290.00677, Florida Statutes, is amended
817 to read:

818 290.00677 Rural enterprise zones; special qualifications.—

819 (1) Notwithstanding the enterprise zone residency
820 requirements set out in s. 212.096(1)(c), eligible businesses as
821 defined by s. 212.096(1)(a), located in rural enterprise zones
822 as defined by s. 290.004, may receive the basic minimum credit
823 provided under s. 212.096 for creating a new job and hiring a
824 person residing within the jurisdiction of a rural community
825 county, as defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other
826 provisions of s. 212.096, including, but not limited to, those
827 relating to the award of enhanced credits, apply to such
828 businesses.

829 (2) Notwithstanding the enterprise zone residency
830 requirements set out in s. 220.03(1)(q), businesses as defined
831 by s. 220.03(1)(c), located in rural enterprise zones as defined
832 in s. 290.004, may receive the basic minimum credit provided
833 under s. 220.181 for creating a new job and hiring a person
834 residing within the jurisdiction of a rural community ~~county~~, as
835 defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other provisions
836 of s. 220.181, including, but not limited to, those relating to
837 the award of enhanced credits apply to such businesses.

838 Section 4. This act shall take effect July 1, 2010.