

By the Committees on Commerce; and Commerce

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1                                   A bill to be entitled  
2           An act relating to the 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; establishing a schedule for  
8           the Office of Tourism, Trade, and Economic Development  
9           to review and revise the list of target industries and  
10          submit a report to the Governor and Legislature;  
11          revising the criteria for the Office of Tourism,  
12          Trade, and Economic Development and Enterprise  
13          Florida, Inc., to use in identifying target industry  
14          businesses; conforming cross-references to changes  
15          made by the act; requiring an application for  
16          certification as a qualified target industry business  
17          to include an estimate of the proportion of the  
18          machinery, equipment, and other resources that will be  
19          used in the applicant's proposed operation in Florida  
20          and purchased by the applicant outside the state;  
21          requiring the Office of Tourism, Trade, and Economic  
22          Development to consider the state's return on  
23          investment in evaluating applicants for the tax refund  
24          program; requiring the Office of Economic and  
25          Demographic Research to submit reports to the  
26          Legislature evaluating the calculation of the state's  
27          return on investment for the program; requiring that  
28          additional provisions be included in tax refund  
29          agreements; redesignating the economic-stimulus

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30 exemption as the "economic recovery extension";  
31 extending the date by which a qualified target  
32 industry business may request an economic recovery  
33 extension; authorizing the Office of Tourism, Trade,  
34 and Economic Development to waive the requirement for  
35 a business to annually provide proof of taxes paid if  
36 the business provides proof that it has paid certain  
37 taxes in amounts at least equal to the total amount of  
38 refunds for which the business is eligible; requiring  
39 the Office of Tourism, Trade, and Economic Development  
40 to conduct a review of certain qualified target  
41 industry businesses that have failed to complete their  
42 tax refund agreements and submit a report of its  
43 findings and recommendations to the Governor, the  
44 President of the Senate, and the Speaker of the House  
45 of Representatives; extending the date by which  
46 businesses may apply to participate in the tax refund  
47 program for qualified target industry businesses;  
48 amending ss. 288.107 and 290.00677, F.S.; conforming  
49 cross-references to changes made by the act; providing  
50 an effective date.

51  
52 Be It Enacted by the Legislature of the State of Florida:

53  
54 Section 1. Section 288.106, Florida Statutes, is amended,  
55 and subsection (2) of that section is reordered, to read:

56 288.106 Tax refund program for qualified target industry  
57 businesses.—

58 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.—The Legislature

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59 finds that retaining and expanding existing businesses in  
60 Florida, encouraging the creation of new businesses in Florida,  
61 attracting new businesses from out of state, and generally  
62 providing conditions favorable for the growth of target  
63 industries creates high-quality, high-wage employment  
64 opportunities for the residents of this state and strengthens  
65 Florida's economic foundation. The Legislature also finds that  
66 incentives that are narrowly focused in application and scope  
67 tend to be more effective at achieving the state's economic-  
68 development goals. Further, the Legislature finds that higher-  
69 wage jobs reduce the state's share of hidden costs such as  
70 public assistance and subsidized health care associated with  
71 low-wage jobs. Therefore, the Legislature declares that it is  
72 the policy of this state to encourage the growth of higher-wage  
73 jobs and a diverse economic base by providing state tax refunds  
74 to qualified target industry businesses that originate or expand  
75 in this state or that relocate to this state.

76 (2)~~(1)~~ DEFINITIONS.—As used in this section:

77 (a) "Account" means the Economic Development Incentives  
78 Account within the Economic Development Trust Fund established  
79 under s. 288.095.

80 (c)~~(b)~~ "Average private sector wage in the area" means the  
81 statewide private sector average wage or the average of all  
82 private sector wages and salaries in the county or in the  
83 standard metropolitan area in which the business is located.

84 (d)~~(e)~~ "Business" means an employing unit, as defined in s.  
85 443.036, which is registered for unemployment compensation  
86 purposes with the state agency providing unemployment tax  
87 collection services under contract with the Agency for Workforce

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88 Innovation through an interagency agreement pursuant to s.  
89 443.1316, or a subcategory or division of an employing unit  
90 which is accepted by the state agency providing unemployment tax  
91 collection services as a reporting unit.

92 (e)~~(d)~~ "Corporate headquarters business" means an  
93 international, national, or regional headquarters office of a  
94 multinational or multistate business enterprise or national  
95 trade association, whether separate from or connected with other  
96 facilities used by such business.

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

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

101 (h)~~(g)~~ "Expansion of an existing business" means the  
102 expansion of an existing Florida business by or through  
103 additions to real and personal property, resulting in a net  
104 increase in employment of not less than 10 percent at such  
105 business.

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

107 (j)~~(i)~~ "Jobs" means full-time equivalent positions,  
108 including, not limited to, positions obtained from a temporary  
109 employment agency or employee leasing company or through a union  
110 agreement or co-employment under a professional employer  
111 organization agreement, which result as that term is consistent  
112 with terms used by the Agency for Workforce Innovation and the  
113 United States Department of Labor for purposes of unemployment  
114 compensation tax administration and employment estimation,  
115 ~~resulting~~ directly from a project in this state. The term does  
116 not include temporary construction jobs involved with the

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117 construction of facilities for the project or any jobs  
118 previously included in any application for tax refunds under s.  
119 288.1045 or this section.

120 (k)~~(j)~~ "Local financial support" means funding from local  
121 sources, public or private, which is paid to the Economic  
122 Development Trust Fund and which is equal to 20 percent of the  
123 annual tax refund for a qualified target industry business. A  
124 qualified target industry business may not provide, directly or  
125 indirectly, more than 5 percent of such funding in any fiscal  
126 year. The sources of such funding may not include, directly or  
127 indirectly, state funds appropriated from the General Revenue  
128 Fund or any state trust fund, excluding tax revenues shared with  
129 local governments pursuant to law.

130 (l)~~(k)~~ "Local financial support exemption option" means the  
131 option to exercise an exemption from the local financial support  
132 requirement available to any applicant whose project is located  
133 in a brownfield area or a rural community ~~county with a~~  
134 ~~population of 75,000 or fewer or a county with a population of~~  
135 ~~125,000 or fewer which is contiguous to a county with a~~  
136 ~~population of 75,000 or fewer.~~ Any applicant that exercises this  
137 option is ~~shall~~ not be eligible for more than 80 percent of the  
138 total tax refunds allowed such applicant under this section.

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

145 (o)~~(m)~~ "Project" means the creation of a new business or

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146 expansion of an existing business.

147 ~~(f)-(n)~~ "Director" means the Director of the Office of  
148 Tourism, Trade, and Economic Development.

149 ~~(t)-(o)~~ "Target industry business" means a corporate  
150 headquarters business or any business that is engaged in one of  
151 the target industries identified pursuant to the following  
152 criteria developed by the office in consultation with Enterprise  
153 Florida, Inc.:

154 1. Future growth.—Industry forecasts should indicate strong  
155 expectation for future growth in both employment and output,  
156 according to the most recent available data. Preference ~~Special~~  
157 ~~consideration~~ should be given to businesses that export goods or  
158 services ~~Florida's growing access~~ to international markets or to  
159 businesses that replace domestic and international ~~replacing~~  
160 imports of goods or services.

161 2. Stability.—The industry should not be subject to  
162 periodic layoffs, whether due to seasonality or sensitivity to  
163 volatile economic variables such as weather. The industry should  
164 also be relatively resistant to recession, so that the demand  
165 for products of this industry is not typically ~~necessarily~~  
166 subject to decline during an economic downturn.

167 3. High wage.—The industry should pay relatively high wages  
168 compared to statewide or area averages.

169 4. Market and resource independent.—The location of  
170 industry businesses should not be dependent on Florida markets  
171 or resources as indicated by industry analysis, with the  
172 exception of businesses in the renewable-energy industry.  
173 ~~Special consideration should be given to the development of~~  
174 ~~strong industrial clusters which include defense and homeland~~

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175 ~~security businesses.~~

176 5. Industrial base diversification and strengthening.—The  
177 industry should contribute toward expanding or diversifying the  
178 state's or area's economic base, as indicated by analysis of  
179 employment and output shares compared to national and regional  
180 trends. Preference ~~Special consideration~~ should be given to  
181 industries that strengthen regional economies by adding value to  
182 basic products or building regional industrial clusters as  
183 indicated by industry analysis. Additionally, preference should  
184 be given to the development of strong industrial clusters that  
185 include defense and homeland security businesses.

186 6. Economic benefits.—The industry is expected to ~~should~~  
187 have strong positive impacts on or benefits to the state or ~~and~~  
188 regional economies.

189  
190 The term does ~~office, in consultation with Enterprise Florida,~~  
191 ~~Inc., shall develop a list of such target industries annually~~  
192 ~~and submit such list as part of the final agency legislative~~  
193 ~~budget request submitted pursuant to s. 216.023(1). A target~~  
194 ~~industry business may~~ not include any business ~~industry~~ engaged  
195 in retail industry activities; any electrical utility company;  
196 any phosphate or other solid minerals severance, mining, or  
197 processing operation; any oil or gas exploration or production  
198 operation; or any business ~~firm~~ subject to regulation by the  
199 Division of Hotels and Restaurants of the Department of Business  
200 and Professional Regulation. By January 1 of every third year,  
201 beginning January 1, 2011, the office, in consultation with  
202 Enterprise Florida, Inc., economic development organizations,  
203 the State University System, local governments, employee and

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204 employer organizations, market analysts, and economists, shall  
205 review and, as appropriate, revise the list of such target  
206 industries and submit the list to the Governor, the President of  
207 the Senate, and the Speaker of the House of Representatives.

208 (u)~~(p)~~ "Taxable year" means taxable year as defined in s.  
209 220.03(1)(y).

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

213 (q) "Return on investment" means the gain in state revenues  
214 as a percentage of the state's investment. The state's  
215 investment includes state grants, tax exemptions, tax refunds,  
216 tax credits, and other state incentives. Return on investment is  
217 expressed mathematically as follows:

218  
219 Return on investment = (gain in state revenues - state's  
220 investment)/state's investment  
221

222 ~~(r) "Rural county" means a county with a population of~~  
223 ~~75,000 or fewer or a county with a population of 100,000 or~~  
224 ~~fewer which is contiguous to a county with a population of~~  
225 ~~75,000 or fewer.~~

226 (r)~~(s)~~ "Rural city" means a city having ~~with~~ a population  
227 of 10,000 or fewer ~~less~~, or a city having ~~with~~ a population of  
228 greater than 10,000 but fewer ~~less~~ than 20,000 which has been  
229 determined by the office ~~of Tourism, Trade, and Economic~~  
230 ~~Development~~ to have economic characteristics such as, but not  
231 limited to, a significant percentage of residents on public  
232 assistance, a significant percentage of residents with income



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233 below the poverty level, or a significant percentage of the  
234 city's employment base in agriculture-related industries.

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

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

237 2. A county having ~~with~~ a population of 125,000 or fewer  
238 which is contiguous to a county having ~~with~~ a population of  
239 75,000 or fewer.

240 3. A municipality within a county described in subparagraph  
241 1. or subparagraph 2.

242

243 For purposes of this paragraph, population shall be determined  
244 in accordance with the most recent official estimate pursuant to  
245 s. 186.901.

246 (b)~~(u)~~ "Authorized local economic development agency" means  
247 a ~~any~~ public or private entity, including those defined in s.  
248 288.075, authorized by a county or municipality to promote the  
249 general business or industrial interests of that county or  
250 municipality.

251 (3)~~(2)~~ TAX REFUND; ELIGIBLE AMOUNTS.—

252 (a) There shall be allowed, from the account, a refund to a  
253 qualified target industry business for the amount of eligible  
254 taxes certified by the director which were paid by the ~~such~~  
255 business. The total amount of refunds for all fiscal years for  
256 each qualified target industry business must be determined  
257 pursuant to subsection (4) ~~(3)~~. The annual amount of a refund to  
258 a qualified target industry business must be determined pursuant  
259 to subsection (6) ~~(5)~~.

260 (b)1. Upon approval by the director, a qualified target  
261 industry business shall be allowed tax refund payments equal to

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262 \$3,000 times the number of jobs specified in the tax refund  
263 agreement under subparagraph (5) (a) 1. ~~(4) (a) 1.~~, or equal to  
264 \$6,000 times the number of jobs if the project is located in a  
265 rural county or an enterprise zone.

266 2. ~~Further,~~ A qualified target industry business shall be  
267 allowed additional tax refund payments equal to \$1,000 times the  
268 number of jobs specified in the tax refund agreement under  
269 subparagraph (5) (a) 1. ~~(4) (a) 1.~~, if such jobs pay an annual  
270 average wage of at least 150 percent of the average area private  
271 sector wage ~~in the area~~, or equal to \$2,000 times the number of  
272 jobs if such jobs pay an annual average area wage of at least  
273 200 percent of the average area private sector wage ~~in the area~~.

274 (c) A qualified target industry business may not receive  
275 refund payments of more than 25 percent of the total tax refunds  
276 specified in the tax refund agreement under subparagraph  
277 (5) (a) 1. ~~(4) (a) 1.~~ in any fiscal year. Further, a qualified  
278 target industry business may not receive more than \$1.5 million  
279 in refunds under this section in any single fiscal year, or more  
280 than \$2.5 million in any single fiscal year if the project is  
281 located in an enterprise zone. A qualified target industry  
282 business may not receive more than \$5 million in refund payments  
283 under this section in all fiscal years, or more than \$7.5  
284 million if the project is located in an enterprise zone. ~~Funds~~  
285 ~~made available pursuant to this section may not be expended in~~  
286 ~~connection with the relocation of a business from one community~~  
287 ~~to another community in this state unless the Office of Tourism,~~  
288 ~~Trade, and Economic Development determines that without such~~  
289 ~~relocation the business will move outside this state or~~  
290 ~~determines that the business has a compelling economic rationale~~

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291 ~~for the relocation and that the relocation will create~~  
292 ~~additional jobs.~~

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

295 1. Receive refunds from the account for the following taxes  
296 due and paid by that business beginning with the first taxable  
297 year of the business which begins after entering into the  
298 agreement:

299 a. Corporate income taxes under chapter 220.

300 b. Insurance premium tax under s. 624.509.

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

303 a. Taxes on sales, use, and other transactions under  
304 chapter 212.

305 b. Intangible personal property taxes under chapter 199.

306 c. Emergency excise taxes under chapter 221.

307 d. Excise taxes on documents under chapter 201.

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

309 f. State communications services taxes administered under  
310 chapter 202. This provision does not apply to the gross receipts  
311 tax imposed under chapter 203 and administered under chapter 202  
312 or the local communications services tax authorized under s.  
313 202.19.

314

315 ~~The addition of state communications services taxes administered~~  
316 ~~under chapter 202 is remedial in nature and retroactive to~~  
317 ~~October 1, 2001. The office may make supplemental tax refund~~  
318 ~~payments to allow for tax refunds for communications services~~  
319 ~~taxes paid by an eligible qualified target industry business~~

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320 after ~~October 1, 2001.~~

321 (e)~~(d)~~ However, a qualified target industry business may  
322 not receive a refund under this section for any amount of  
323 credit, refund, or exemption granted to that business for any of  
324 the such taxes listed in paragraph (d). If a refund for such  
325 taxes is provided by the office, which taxes are subsequently  
326 adjusted by the application of any credit, refund, or exemption  
327 granted to the qualified target industry business other than as  
328 provided in this section, the business shall reimburse the  
329 account for the amount of that credit, refund, or exemption. A  
330 qualified target industry business shall notify and tender  
331 payment to the office within 20 days after receiving any credit,  
332 refund, or exemption other than one provided in this section.

333 (f) Refunds made available pursuant to this section may not  
334 be expended in connection with the relocation of a business from  
335 one community to another community in this state unless the  
336 office determines that without such relocation the business will  
337 move outside this state, or determines that the business has a  
338 compelling economic rationale for the relocation and that the  
339 relocation will create additional jobs.

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

342 1. Is liable for repayment of the amount of the refund to  
343 the account, plus a mandatory penalty in the amount of 200  
344 percent of the tax refund which shall be deposited into the  
345 General Revenue Fund.

346 2. Commits ~~Is guilty of~~ a felony of the third degree,  
347 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

348 (4)~~(3)~~ APPLICATION AND APPROVAL PROCESS.—

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349 (a) To apply for certification as a qualified target  
350 industry business under this section, the business must file an  
351 application with the office before the business decides ~~has made~~  
352 ~~the decision~~ to locate a ~~new business~~ in this state or before  
353 the business decides ~~had made the decision~~ to expand its ~~an~~  
354 existing operations ~~business~~ in this state. The application must  
355 ~~shall~~ include, but need is ~~is~~ not be ~~be~~ limited to, ~~the following~~  
356 ~~information:~~

357 1. The applicant's federal employer identification number  
358 and, if applicable, ~~the applicant's~~ state sales tax registration  
359 number.

360 2. The proposed permanent location of the applicant's  
361 facility in this state at which the project is or is to be  
362 located.

363 3. A description of the type of business activity or  
364 product covered by the project, including a minimum of a five-  
365 digit NAICS code for all activities included in the project. As  
366 used in this paragraph, "NAICS" means those classifications  
367 contained in the North American Industry Classification System,  
368 as published in 2007 by the Office of Management and Budget,  
369 Executive Office of the President, and updated periodically.

370 4. The proposed number of net new full-time equivalent  
371 Florida jobs at the qualified target industry business as of  
372 December 31 of each year included in the project and the average  
373 wage of those jobs. If more than one type of business activity  
374 or product is included in the project, the number of jobs and  
375 average wage for those jobs must be separately stated for each  
376 type of business activity or product.

377 5. The total number of full-time equivalent employees

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378 employed by the applicant in this state, if applicable.

379 6. The anticipated commencement date of the project.

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

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

385 9. An estimate of the proportion of the cost of the  
386 machinery and equipment, and any other resources necessary in  
387 the development of its product or service, which is to be used  
388 by the business in its Florida operations and which will be  
389 purchased outside this state.

390 ~~10.9.~~ A resolution adopted by the governing board of the  
391 county or municipality in which the project will be located,  
392 which ~~resolution~~ recommends that the project ~~certain types of~~  
393 ~~businesses~~ be approved as a qualified target industry business  
394 and specifies ~~states~~ that the commitments of local financial  
395 support necessary for the target industry business exist. In  
396 advance of the passage of such resolution, the office may also  
397 accept an official letter from an authorized local economic  
398 development agency that endorses the proposed target industry  
399 project and pledges that sources of local financial support for  
400 such project exist. For the purposes of making pledges of local  
401 financial support under this subsection, the authorized local  
402 economic development agency shall be officially designated by  
403 the passage of a one-time resolution by the local governing  
404 authority.

405 ~~11.10.~~ Any additional information requested by the office.

406 (b) To qualify for review by the office, the application of

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407 a target industry business must, at a minimum, establish the  
408 following to the satisfaction of the office:

409 1.a. The jobs proposed to be created ~~provided~~ under the  
410 application, pursuant to subparagraph (a)4., must pay an  
411 estimated annual average wage equaling at least 115 percent of  
412 the average private sector wage in the area where the business  
413 is to be located or the statewide private sector average wage.  
414 In determining the average annual wage, the office shall include  
415 only new proposed jobs, and wages for existing jobs shall be  
416 excluded from this calculation.

417 b. The office may waive the average wage requirement at the  
418 request of the local governing body recommending the project and  
419 Enterprise Florida, Inc. The director may waive the wage  
420 requirement ~~may only be waived~~ for a project located in a  
421 brownfield area designated under s. 376.80 or in a rural city,  
422 rural community, ~~or county,~~ or ~~in an~~ enterprise zone ~~and~~ only if  
423 ~~when~~ the merits of the individual project or the specific  
424 circumstances in the community in relationship to the project  
425 warrant such action. If the local governing body and Enterprise  
426 Florida, Inc., make such a recommendation, it must be  
427 transmitted in writing and the specific justification for the  
428 waiver recommendation must be explained. If the director elects  
429 to waive the wage requirement, the waiver must be stated in  
430 writing and the reasons for granting the waiver must be  
431 explained.

432 2. The target industry business's project must result in  
433 the creation of at least 10 jobs at the ~~such~~ project and, if an  
434 expansion of an existing business, must result in an ~~a net~~  
435 increase in employment of at least 10 percent at the business.

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436 ~~Notwithstanding the definition of the term "expansion of an~~  
437 ~~existing business" in paragraph (1)(g),~~ At the request of the  
438 local governing body recommending the project and Enterprise  
439 Florida, Inc., the office may waive this requirement for a  
440 business in a rural community or enterprise zone ~~define an~~  
441 ~~"expansion of an existing business" in a rural community or an~~  
442 ~~enterprise zone as the expansion of a business resulting in a~~  
443 ~~net increase in employment of less than 10 percent at such~~  
444 ~~business~~ if the merits of the individual project or the specific  
445 circumstances in the community in relationship to the project  
446 warrant such action. If the local governing body and Enterprise  
447 Florida, Inc., make such a request, the request must be  
448 transmitted in writing and the specific justification for the  
449 request must be explained. If the director elects to grant the  
450 request, the grant must be stated in writing and the reason for  
451 granting the request must be explained.

452 3. The business activity or product for the applicant's  
453 project is within an industry ~~or industries that have been~~  
454 identified by the office as a target industry business ~~to be~~  
455 ~~high-value-added industries that~~ contributes ~~contribute to the~~  
456 ~~area and~~ to the economic growth of the state and the region in  
457 which it is located, that produces ~~produce~~ a higher standard of  
458 living for residents of this state in the new global economy, or  
459 that can be shown to make an equivalent contribution to the area  
460 and state's economic progress. ~~The director must approve~~  
461 ~~requests to waive the wage requirement for brownfield areas~~  
462 ~~designated under s. 376.80 unless it is demonstrated that such~~  
463 ~~action is not in the public interest.~~

464 (c) Each application meeting the requirements of paragraph



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465 (b) must be submitted to the office for determination of  
466 eligibility. The office shall review and evaluate each  
467 application based on, but not limited to, the following  
468 criteria:

469 1. Expected contributions to the state economy, consistent  
470 with the state strategic economic development plan adopted by  
471 Enterprise Florida, Inc., ~~taking into account the long-term~~  
472 ~~effects of the project and of the applicant on the state~~  
473 ~~economy.~~

474 2. The return on investment of the proposed award of tax  
475 refunds under this section and the return on investment for  
476 state incentives proposed for the project. The Office of  
477 Economic and Demographic Research shall review and evaluate the  
478 methodology and model used to calculate the return on investment  
479 and report its findings by September 1 of every third year,  
480 beginning September 1, 2010, to the President of the Senate and  
481 the Speaker of the House of Representatives ~~economic benefit of~~  
482 ~~the jobs created by the project in this state, taking into~~  
483 ~~account the cost and average wage of each job created.~~

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

486 4. The local financial commitment and support for the  
487 project.

488 5. The effect of the project on the unemployment rate in  
489 ~~local community, taking into account the unemployment rate for~~  
490 the county where the project will be located.

491 6. The effect of the award ~~any tax refunds granted pursuant~~  
492 ~~to this section~~ on the viability of the project and the  
493 probability that the project would ~~will~~ be undertaken in this

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494 state if such tax refunds are granted to the applicant, ~~taking~~  
495 ~~into account the expected long-term commitment of the applicant~~  
496 ~~to economic growth and employment in this state.~~

497 7. The expected long-term commitment of the applicant to  
498 economic growth and employment to this state resulting from the  
499 project.

500 8. A review of the business's past activities in this state  
501 or other states, including whether such business has been  
502 subjected to criminal or civil fines and penalties. This  
503 subparagraph does not require the disclosure of confidential  
504 information.

505 (d) Applications shall be reviewed and certified pursuant  
506 to s. 288.061. The office shall include in its review  
507 projections of the tax refunds the business would be eligible to  
508 receive in each fiscal year based on the creation and  
509 maintenance of the net new Florida jobs specified in  
510 subparagraph (a)4. as of December 31 of the preceding state  
511 fiscal year. If appropriate, the director shall enter into a  
512 written agreement with the qualified target industry business  
513 pursuant to subsection (5) ~~(4)~~.

514 (e) The director may not certify any target industry  
515 business as a qualified target industry business if the value of  
516 tax refunds to be included in that letter of certification  
517 exceeds the available amount of authority to certify new  
518 businesses as determined in s. 288.095(3). However, if the  
519 commitments of local financial support represent less than 20  
520 percent of the eligible tax refund payments, or to otherwise  
521 preserve the viability and fiscal integrity of the program, the  
522 director may certify a qualified target industry business to

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523 receive tax refund payments of less than the allowable amounts  
524 specified in paragraph (3) (b) ~~(2) (b)~~. A letter of certification  
525 that approves an application must specify the maximum amount of  
526 tax refund that will be available to the qualified industry  
527 business in each fiscal year and the total amount of tax refunds  
528 that will be available to the business for all fiscal years.

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

534 (5)~~(4)~~ TAX REFUND AGREEMENT.—

535 (a) Each qualified target industry business must enter into  
536 a written agreement with the office which specifies, at a  
537 minimum:

538 1. The total number of full-time equivalent jobs in this  
539 state that will be dedicated to the project, the average wage of  
540 those jobs, the definitions that will apply for measuring the  
541 achievement of these terms during the pendency of the agreement,  
542 and a time schedule or plan for when such jobs will be in place  
543 and active in this state.

544 2. The maximum amount of tax refunds which the qualified  
545 target industry business is eligible to receive on the project  
546 and the maximum amount of a tax refund that the qualified target  
547 industry business is eligible to receive for each fiscal year,  
548 based on the job creation and maintenance schedule specified in  
549 subparagraph 1.

550 3. That the office may review and verify the financial and  
551 personnel records of the qualified target industry business to

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552 ascertain whether that business is in compliance with this  
553 section.

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

558 5. That local financial support will be annually available  
559 and will be paid to the account. The office ~~director~~ may not  
560 enter into a written agreement with a qualified target industry  
561 business if the local financial support resolution is not passed  
562 by the local governing body ~~authority~~ within 90 days after the  
563 office ~~he or she~~ has issued the letter of certification under  
564 subsection (4) ~~(3)~~.

565 6. That the office may conduct a review of the business to  
566 evaluate whether the business is continuing to contribute to the  
567 area's or state's economy.

568 7. That in the event the business does not complete the  
569 agreement, the business shall provide the office with the  
570 reasons the business was unable to complete the agreement.

571 (b) Compliance with the terms and conditions of the  
572 agreement is a condition precedent for the receipt of a tax  
573 refund each year. The failure to comply with the terms and  
574 conditions of the tax refund agreement results in the loss of  
575 eligibility for receipt of all tax refunds previously authorized  
576 under this section and the revocation by the director of the  
577 certification of the business entity as a qualified target  
578 industry business, unless the business is eligible to receive  
579 and elects to accept a prorated refund under paragraph (6) (e)  
580 ~~(5) (d)~~ or the office grants the business an economic recovery

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581 extension ~~economic stimulus exemption~~.

582 1. A qualified target industry business may submit, ~~in~~  
583 ~~writing~~, a request to the office for an economic recovery  
584 extension ~~economic stimulus exemption~~. The request must provide  
585 quantitative evidence demonstrating how negative economic  
586 conditions in the business's industry, the effects of the impact  
587 of a named hurricane or tropical storm, or specific acts of  
588 terrorism affecting the qualified target industry business have  
589 prevented the business from complying with the terms and  
590 conditions of its tax refund agreement.

591 2. Upon receipt of a request under subparagraph 1., the  
592 director has ~~shall have~~ 45 days to notify the requesting  
593 business, in writing, if its extension ~~exemption~~ has been  
594 granted or denied. In determining if an extension ~~exemption~~  
595 should be granted, the director shall consider the extent to  
596 which negative economic conditions in the requesting business's  
597 industry have occurred in the state or the effects of the impact  
598 of a named hurricane or tropical storm or specific acts of  
599 terrorism affecting the qualified target industry business have  
600 prevented the business from complying with the terms and  
601 conditions of its tax refund agreement. The office shall  
602 consider current employment statistics for this state by  
603 industry, including whether the business's industry had  
604 substantial job loss during the prior year, when determining  
605 whether an extension ~~exemption~~ shall be granted.

606 3. As a condition for receiving a prorated refund under  
607 paragraph (6) (e) ~~(5) (d)~~ or an economic recovery extension  
608 ~~economic stimulus exemption~~ under this paragraph, a qualified  
609 target industry business must agree to renegotiate its tax

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610 refund agreement with the office to, at a minimum, ensure that  
611 the terms of the agreement comply with current law and office  
612 procedures governing application for and award of tax refunds.  
613 Upon approving the award of a prorated refund or granting an  
614 economic recovery extension ~~economic-stimulus exemption~~, the  
615 office shall renegotiate the tax refund agreement with the  
616 business as required by this subparagraph. When amending the  
617 agreement of a business receiving an economic recovery extension  
618 ~~economic-stimulus exemption~~, the office may extend the duration  
619 of the agreement for a period not to exceed 2 years.

620 4. A qualified target industry business may submit a  
621 request for an economic recovery extension ~~economic-stimulus~~  
622 ~~exemption~~ to the office in lieu of any tax refund claim  
623 scheduled to be submitted after January 1, 2009, but before July  
624 1, 2012 ~~2011~~.

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

628 (c) The agreement must be signed by the director and by an  
629 authorized officer of the qualified target industry business  
630 within 120 days after the issuance of the letter of  
631 certification under subsection (4) ~~(3)~~, but not before passage  
632 and receipt of the resolution of local financial support. The  
633 office may grant an extension of this period at the written  
634 request of the qualified target industry business.

635 (d) The agreement must contain the following legend,  
636 clearly printed on its face in bold type of not less than 10  
637 points in size: "This agreement is neither a general obligation  
638 of the State of Florida, nor is it backed by the full faith and

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639 credit of the State of Florida. Payment of tax refunds is ~~are~~  
640 conditioned on and subject to specific annual appropriations by  
641 the Florida Legislature ~~of moneys~~ sufficient to pay amounts  
642 authorized in section 288.106, Florida Statutes."

643 (6) ~~(5)~~ ANNUAL CLAIM FOR REFUND.—

644 (a) To be eligible to claim any scheduled tax refund, a  
645 qualified target industry business that has entered into a tax  
646 refund agreement with the office under subsection (5) ~~(4)~~ must  
647 apply by January 31 of each fiscal year to the office for the  
648 tax refund scheduled to be paid from the appropriation for the  
649 fiscal year that begins on July 1 following the January 31  
650 claims-submission date. The office may, upon written request,  
651 grant a 30-day extension of the filing date.

652 (b) The claim for refund by the qualified target industry  
653 business must include a copy of all receipts pertaining to the  
654 payment of taxes for which the refund is sought and data related  
655 to achievement of each performance item specified in the tax  
656 refund agreement. The amount requested as a tax refund may not  
657 exceed the amount specified for the relevant fiscal year in that  
658 agreement.

659 (c) If the qualified target industry business provides the  
660 office with proof that in a single year it has paid an amount of  
661 state taxes, from the categories in paragraph (3) (d), which is  
662 at least equal to the total amount of tax refunds it may receive  
663 through successful completion of its qualified target industry  
664 agreement, the office may waive the requirement for proof of  
665 taxes paid in future years.

666 (d) ~~(e)~~ A tax refund may not be approved for a qualified  
667 target industry business unless the required local financial

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668 support has been paid into the account for that refund. If the  
669 local financial support provided is less than 20 percent of the  
670 approved tax refund, the tax refund must be reduced. In no event  
671 may the tax refund exceed an amount that is equal to 5 times the  
672 amount of the local financial support received. Further, funding  
673 from local sources includes any tax abatement granted to that  
674 business under s. 196.1995 or the appraised market value of  
675 municipal or county land conveyed or provided at a discount to  
676 that business. The amount of any tax refund for such business  
677 approved under this section must be reduced by the amount of any  
678 such tax abatement granted or the value of the land granted; and  
679 the limitations in subsection (3) ~~(2)~~ and paragraph (4) (e)  
680 ~~(3) (e)~~ must be reduced by the amount of any such tax abatement  
681 or the value of the land granted. A report listing all sources  
682 of the local financial support shall be provided to the office  
683 when such support is paid to the account.

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

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

691 2. The average wage paid by the business is at least 90  
692 percent of the average wage specified in the tax refund  
693 agreement, but in no case less than 115 percent of the average  
694 private sector wage in the area available at the time of  
695 certification, or 150 percent or 200 percent of the average  
696 private sector wage if the business requested the additional



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697 per-job tax refund authorized in paragraph (3) (b) ~~(2) (b)~~ for  
698 wages above those levels.

699

700 The prorated tax refund shall be calculated by multiplying the  
701 tax refund amount for which the qualified target industry  
702 business would have been eligible, if all applicable  
703 requirements had been satisfied, by the percentage of the  
704 average employment specified in the tax refund agreement which  
705 was achieved, and by the percentage of the average wages  
706 specified in the tax refund agreement which was achieved.

707 (f) ~~(e)~~ The director, with such assistance as may be  
708 required from the office, the Department of Revenue, or the  
709 Agency for Workforce Innovation, shall, by June 30 following the  
710 scheduled date for submission of the tax refund claim, specify  
711 by written order the approval or disapproval of the tax refund  
712 claim and, if approved, the amount of the tax refund that is  
713 authorized to be paid to the qualified target industry business  
714 for the annual tax refund. The office may grant an extension of  
715 this date on the request of the qualified target industry  
716 business for the purpose of filing additional information in  
717 support of the claim.

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

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

723 (i) ~~(h)~~ Upon approval of the tax refund under paragraphs  
724 ~~(e)~~, (d), and (e), and (f), the Chief Financial Officer shall  
725 issue a warrant for the amount specified in the written order.

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726 If the written order is appealed, the Chief Financial Officer  
727 may not issue a warrant for a refund to the qualified target  
728 industry business until the conclusion of all appeals of that  
729 order.

730 (7)~~(6)~~ ADMINISTRATION.—

731 (a) The office may ~~is authorized to~~ verify information  
732 provided in any claim submitted for tax credits under this  
733 section with regard to employment and wage levels or the payment  
734 of the taxes to the appropriate agency or authority, including  
735 the Department of Revenue, the Agency for Workforce Innovation,  
736 or any local government or authority.

737 (b) To facilitate the process of monitoring and auditing  
738 applications made under this program, the office may provide a  
739 list of qualified target industry businesses to the Department  
740 of Revenue, to the Agency for Workforce Innovation, or to any  
741 local government or authority. The office may request the  
742 assistance of those entities with respect to monitoring jobs,  
743 wages, and the payment of the taxes listed in subsection (3)  
744 ~~(2)~~.

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

749 (d) Beginning with tax refund agreements signed after July  
750 1, 2010, the office shall attempt to ascertain the causes for  
751 any business's failure to complete its agreement and shall  
752 report its findings and recommendations to the Governor, the  
753 President of the Senate, and the Speaker of the House of  
754 Representatives. The report shall be submitted by December 1 of

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755 each year beginning in 2011.

756 ~~(7) Notwithstanding paragraphs (4) (a) and (5) (c), the~~  
757 ~~office may approve a waiver of the local financial support~~  
758 ~~requirement for a business located in any of the following~~  
759 ~~counties in which businesses received emergency loans~~  
760 ~~administered by the office in response to the named hurricanes~~  
761 ~~of 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler,~~  
762 ~~Glades, Hardee, Hendry, Highlands, Indian River, Lake, Lee,~~  
763 ~~Martin, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk,~~  
764 ~~Putnam, Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A~~  
765 ~~waiver may be granted only if the office determines that the~~  
766 ~~local financial support cannot be provided or that doing so~~  
767 ~~would effect a demonstrable hardship on the unit of local~~  
768 ~~government providing the local financial support. If the office~~  
769 ~~grants a waiver of the local financial support requirement, the~~  
770 ~~state shall pay 100 percent of the refund due to an eligible~~  
771 ~~business. The waiver shall apply for tax refund applications~~  
772 ~~made for fiscal years 2004-2005, 2005-2006, and 2006-2007.~~

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

777 Section 2. Paragraph (e) of subsection (1), subsection (2),  
778 paragraphs (a) and (d) of subsection (4), and paragraph (b) of  
779 subsection (5) of section 288.107, Florida Statutes, are amended  
780 to read:

781 288.107 Brownfield redevelopment bonus refunds.—

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

783 (e) "Eligible business" means:

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784 1. A qualified target industry business as defined in s.  
785 288.106(2) ~~s. 288.106(1)(e)~~; or

786 2. A business that can demonstrate a fixed capital  
787 investment of at least \$2 million in mixed-use business  
788 activities, including multiunit housing, commercial, retail, and  
789 industrial in brownfield areas, or at least \$500,000 in  
790 brownfield areas that do not require site cleanup, and which  
791 provides benefits to its employees.

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

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

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

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

808 (a) To be eligible to receive a bonus refund for new  
809 Florida jobs created in a brownfield, a business must have been  
810 certified as a qualified target industry business under s.  
811 288.106 or eligible business as defined in paragraph (1)(e) and  
812 must have indicated on the qualified target industry tax refund

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813 application form submitted in accordance with s. 288.106(4) ~~s.~~  
814 ~~288.106(3)~~ or other similar agreement for other eligible  
815 business as defined in paragraph (1)(e) that the project for  
816 which the application is submitted is or will be located in a  
817 brownfield and that the business is applying for certification  
818 as a qualified brownfield business under this section, and must  
819 have signed a qualified target industry tax refund agreement  
820 with the office which indicates that the business has been  
821 certified as a qualified target industry business located in a  
822 brownfield and specifies the schedule of brownfield  
823 redevelopment bonus refunds that the business may be eligible to  
824 receive in each fiscal year.

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

830 (5) ADMINISTRATION.—

831 (b) To facilitate the process of monitoring and auditing  
832 applications made under this program, the office may provide a  
833 list of qualified target industry businesses to the Department  
834 of Revenue, to the Agency for Workforce Innovation, to the  
835 Department of Environmental Protection, or to any local  
836 government authority. The office may request the assistance of  
837 those entities with respect to monitoring the payment of the  
838 taxes listed in s. 288.106(3) ~~s. 288.106(2)~~.

839 Section 3. Section 290.00677, Florida Statutes, is amended  
840 to read:

841 290.00677 Rural enterprise zones; special qualifications.—

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842 (1) Notwithstanding the enterprise zone residency  
843 requirements set out in s. 212.096(1)(c), eligible businesses as  
844 defined by s. 212.096(1)(a), located in rural enterprise zones  
845 as defined by s. 290.004, may receive the basic minimum credit  
846 provided under s. 212.096 for creating a new job and hiring a  
847 person residing within the jurisdiction of a rural community  
848 county, as defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other  
849 provisions of s. 212.096, including, but not limited to, those  
850 relating to the award of enhanced credits, apply to such  
851 businesses.

852 (2) Notwithstanding the enterprise zone residency  
853 requirements set out in s. 220.03(1)(q), businesses as defined  
854 by s. 220.03(1)(c), located in rural enterprise zones as defined  
855 in s. 290.004, may receive the basic minimum credit provided  
856 under s. 220.181 for creating a new job and hiring a person  
857 residing within the jurisdiction of a rural community ~~county~~, as  
858 defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other provisions  
859 of s. 220.181, including, but not limited to, those relating to  
860 the award of enhanced credits apply to such businesses.

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