

By the Committees on Finance and Tax; 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 the Office of Tourism,
16 Trade, and Economic Development to consider the
17 state's return on investment in evaluating applicants
18 for the tax refund program; requiring the Office of
19 Economic and Demographic Research to submit reports to
20 the Legislature evaluating the calculation of the
21 state's return on investment for the program;
22 requiring that additional provisions be included in
23 tax refund agreements; redesignating the economic-
24 stimulus exemption as the "economic recovery
25 extension"; extending the date by which a qualified
26 target industry business may request an economic
27 recovery extension; authorizing the Office of Tourism,
28 Trade, and Economic Development to waive the
29 requirement for a business to annually provide proof

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

45
46 Be It Enacted by the Legislature of the State of Florida:

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

50 288.106 Tax refund program for qualified target industry
51 businesses.-

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

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

70 (2)~~(1)~~ DEFINITIONS.—As used in this section:

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

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

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

86 (e)~~(d)~~ "Corporate headquarters business" means an
87 international, national, or regional headquarters office of a

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88 multinational or multistate business enterprise or national
89 trade association, whether separate from or connected with other
90 facilities used by such business.

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

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

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

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

101 (j)~~(i)~~ "Jobs" means full-time equivalent positions,
102 including, not limited to, positions obtained from a temporary
103 employment agency or employee leasing company or through a union
104 agreement or co-employment under a professional employer
105 organization agreement, which result as that term is consistent
106 with terms used by the Agency for Workforce Innovation and the
107 United States Department of Labor for purposes of unemployment
108 compensation tax administration and employment estimation,
109 ~~resulting~~ directly from a project in this state. The term does
110 not include temporary construction jobs involved with the
111 construction of facilities for the project or any jobs
112 previously included in any application for tax refunds under s.
113 288.1045 or this section.

114 (k)~~(j)~~ "Local financial support" means funding from local
115 sources, public or private, which is paid to the Economic
116 Development Trust Fund and which is equal to 20 percent of the

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117 annual tax refund for a qualified target industry business. A
118 qualified target industry business may not provide, directly or
119 indirectly, more than 5 percent of such funding in any fiscal
120 year. The sources of such funding may not include, directly or
121 indirectly, state funds appropriated from the General Revenue
122 Fund or any state trust fund, excluding tax revenues shared with
123 local governments pursuant to law.

124 (l)~~(k)~~ "Local financial support exemption option" means the
125 option to exercise an exemption from the local financial support
126 requirement available to any applicant whose project is located
127 in a brownfield area or a rural community ~~county with a~~
128 ~~population of 75,000 or fewer or a county with a population of~~
129 ~~125,000 or fewer which is contiguous to a county with a~~
130 ~~population of 75,000 or fewer.~~ Any applicant that exercises this
131 option is ~~shall~~ not be eligible for more than 80 percent of the
132 total tax refunds allowed such applicant under this section.

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

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

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

143 (t)~~(e)~~ "Target industry business" means a corporate
144 headquarters business or any business that is engaged in one of
145 the target industries identified pursuant to the following

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146 criteria developed by the office in consultation with Enterprise
147 Florida, Inc.:

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

155 2. Stability.—The industry should not be subject to
156 periodic layoffs, whether due to seasonality or sensitivity to
157 volatile economic variables such as weather. The industry should
158 also be relatively resistant to recession, so that the demand
159 for products of this industry is not typically ~~necessarily~~
160 subject to decline during an economic downturn.

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

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

170 5. Industrial base diversification and strengthening.—The
171 industry should contribute toward expanding or diversifying the
172 state's or area's economic base, as indicated by analysis of
173 employment and output shares compared to national and regional
174 trends. Preference ~~Special consideration~~ should be given to

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175 industries that strengthen regional economies by adding value to
176 basic products or building regional industrial clusters as
177 indicated by industry analysis. Additionally, preference should
178 be given to the development of strong industrial clusters that
179 include defense and homeland security businesses.

180 6. Economic benefits.—The industry is expected to ~~should~~
181 have strong positive impacts on or benefits to the state or ~~and~~
182 regional economies.

183
184 The term does office, in consultation with Enterprise Florida,
185 Inc., shall develop a list of such target industries annually
186 and submit such list as part of the final agency legislative
187 budget request submitted pursuant to s. 216.023(1). A target
188 industry business may not include any business industry engaged
189 in retail industry activities; any electrical utility company;
190 any phosphate or other solid minerals severance, mining, or
191 processing operation; any oil or gas exploration or production
192 operation; or any business firm subject to regulation by the
193 Division of Hotels and Restaurants of the Department of Business
194 and Professional Regulation. By January 1 of every third year,
195 beginning January 1, 2011, the office, in consultation with
196 Enterprise Florida, Inc., economic development organizations,
197 the State University System, local governments, employee and
198 employer organizations, market analysts, and economists, shall
199 review and, as appropriate, revise the list of such target
200 industries and submit the list to the Governor, the President of
201 the Senate, and the Speaker of the House of Representatives.

202 (u) ~~(p)~~ "Taxable year" means taxable year as defined in s.
203 220.03(1)(y).

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

207 (q) "Return on investment" means the gain in state revenues
208 as a percentage of the state's investment. The state's
209 investment includes state grants, tax exemptions, tax refunds,
210 tax credits, and other state incentives. Return on investment is
211 expressed mathematically as follows:

212
213
$$\frac{\text{Return on investment} = (\text{gain in state revenues} - \text{state's}$$

214
$$\text{investment}) / \text{state's investment}$$

215
216 ~~(r)~~ "Rural county" means a county with a population of
217 75,000 or fewer or a county with a population of 100,000 or
218 fewer which is contiguous to a county with a population of
219 75,000 or fewer.

220 ~~(r)~~~~(s)~~ "Rural city" means a city having ~~with~~ a population
221 of 10,000 or fewer ~~less~~, or a city having ~~with~~ a population of
222 greater than 10,000 but fewer ~~less~~ than 20,000 which has been
223 determined by the office of ~~Tourism, Trade, and Economic~~
224 ~~Development~~ to have economic characteristics such as, but not
225 limited to, a significant percentage of residents on public
226 assistance, a significant percentage of residents with income
227 below the poverty level, or a significant percentage of the
228 city's employment base in agriculture-related industries.

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

- 230 1. A county having ~~with~~ a population of 75,000 or fewer.
231 2. A county having ~~with~~ a population of 125,000 or fewer
232 which is contiguous to a county having ~~with~~ a population of

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233 75,000 or fewer.

234 3. A municipality within a county described in subparagraph
235 1. or subparagraph 2.

236

237 For purposes of this paragraph, population shall be determined
238 in accordance with the most recent official estimate pursuant to
239 s. 186.901.

240 (b)~~(a)~~ "Authorized local economic development agency" means
241 a ~~any~~ public or private entity, including those defined in s.
242 288.075, authorized by a county or municipality to promote the
243 general business or industrial interests of that county or
244 municipality.

245 (3)~~(2)~~ TAX REFUND; ELIGIBLE AMOUNTS.—

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

254 (b)1. Upon approval by the director, a qualified target
255 industry business shall be allowed tax refund payments equal to
256 \$3,000 times the number of jobs specified in the tax refund
257 agreement under subparagraph (5)(a)1. ~~(4)(a)1.~~, or equal to
258 \$6,000 times the number of jobs if the project is located in a
259 rural county or an enterprise zone.

260 2. ~~Further,~~ A qualified target industry business shall be
261 allowed additional tax refund payments equal to \$1,000 times the

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262 number of jobs specified in the tax refund agreement under
263 subparagraph (5) (a) 1. ~~(4) (a) 1.~~, if such jobs pay an annual
264 average wage of at least 150 percent of the average area private
265 sector wage ~~in the area~~, or equal to \$2,000 times the number of
266 jobs if such jobs pay an annual average area wage of at least
267 200 percent of the average area private sector wage ~~in the area~~.

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

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

289 1. Receive refunds from the account for the following taxes
290 due and paid by that business beginning with the first taxable

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291 year of the business which begins after entering into the
292 agreement:

293 a. Corporate income taxes under chapter 220.

294 b. Insurance premium tax under s. 624.509.

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

297 a. Taxes on sales, use, and other transactions under
298 chapter 212.

299 b. Intangible personal property taxes under chapter 199.

300 c. Emergency excise taxes under chapter 221.

301 d. Excise taxes on documents under chapter 201.

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

303 f. State communications services taxes administered under
304 chapter 202. This provision does not apply to the gross receipts
305 tax imposed under chapter 203 and administered under chapter 202
306 or the local communications services tax authorized under s.
307 202.19.

308

309 ~~The addition of state communications services taxes administered~~
310 ~~under chapter 202 is remedial in nature and retroactive to~~
311 ~~October 1, 2001. The office may make supplemental tax refund~~
312 ~~payments to allow for tax refunds for communications services~~
313 ~~taxes paid by an eligible qualified target industry business~~
314 ~~after October 1, 2001.~~

315 (e) ~~(d)~~ However, a qualified target industry business may
316 not receive a refund under this section for any amount of
317 credit, refund, or exemption granted to that business for any of
318 the such taxes listed in paragraph (d). If a refund for such
319 taxes is provided by the office, which taxes are subsequently

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320 adjusted by the application of any credit, refund, or exemption
321 granted to the qualified target industry business other than as
322 provided in this section, the business shall reimburse the
323 account for the amount of that credit, refund, or exemption. A
324 qualified target industry business shall notify and tender
325 payment to the office within 20 days after receiving any credit,
326 refund, or exemption other than one provided in this section.

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

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

336 1. Is liable for repayment of the amount of the refund to
337 the account, plus a mandatory penalty in the amount of 200
338 percent of the tax refund which shall be deposited into the
339 General Revenue Fund.

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

342 (4)~~(3)~~ APPLICATION AND APPROVAL PROCESS.—

343 (a) To apply for certification as a qualified target
344 industry business under this section, the business must file an
345 application with the office before the business decides ~~has made~~
346 ~~the decision~~ to locate a ~~new business~~ in this state or before
347 the business decides ~~had made the decision~~ to expand its ~~an~~
348 existing operations ~~business~~ in this state. The application must

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349 shall include, but need is not be limited to,~~the following~~
350 ~~information:~~

351 1. The applicant's federal employer identification number
352 and, if applicable, ~~the applicant's~~ state sales tax registration
353 number.

354 2. The proposed permanent location of the applicant's
355 facility in this state at which the project is or is to be
356 located.

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

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

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

373 6. The anticipated commencement date of the project.

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

377 8. An estimate of the proportion of the sales resulting

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378 from the project that will be made outside this state.

379 9. A resolution adopted by the governing board of the
380 county or municipality in which the project will be located,
381 which ~~resolution~~ recommends that the project ~~certain types of~~
382 ~~businesses~~ be approved as a qualified target industry business
383 and specifies ~~states~~ that ~~the~~ commitments of local financial
384 support necessary for the target industry business exist. In
385 advance of the passage of such resolution, the office may also
386 accept an official letter from an authorized local economic
387 development agency that endorses the proposed target industry
388 project and pledges that sources of local financial support for
389 such project exist. For the purposes of making pledges of local
390 financial support under this subsection, the authorized local
391 economic development agency shall be officially designated by
392 the passage of a one-time resolution by the local governing
393 authority.

394 10. Any additional information requested by the office.

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

398 1.a. The jobs proposed to be created ~~provided~~ under the
399 application, pursuant to subparagraph (a)4., must pay an
400 estimated annual average wage equaling at least 115 percent of
401 the average private sector wage in the area where the business
402 is to be located or the statewide private sector average wage.
403 In determining the average annual wage, the office shall include
404 only new proposed jobs, and wages for existing jobs shall be
405 excluded from this calculation.

406 b. The office may waive the average wage requirement at the

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407 request of the local governing body recommending the project and
408 Enterprise Florida, Inc. The director may waive the wage
409 ~~requirement may only be waived~~ for a project located in a
410 brownfield area designated under s. 376.80 or in a rural city,
411 rural community, or county, ~~or in an~~ enterprise zone ~~and only if~~
412 ~~when~~ the merits of the individual project or the specific
413 circumstances in the community in relationship to the project
414 warrant such action. If the local governing body and Enterprise
415 Florida, Inc., make such a recommendation, it must be
416 transmitted in writing and the specific justification for the
417 waiver recommendation must be explained. If the director elects
418 to waive the wage requirement, the waiver must be stated in
419 writing and the reasons for granting the waiver must be
420 explained.

421 2. The target industry business's project must result in
422 the creation of at least 10 jobs at the ~~such~~ project and, if an
423 expansion of an existing business, must result in an ~~a net~~
424 increase in employment of at least 10 percent at the business.
425 ~~Notwithstanding the definition of the term "expansion of an~~
426 ~~existing business" in paragraph (1)(g),~~ At the request of the
427 local governing body recommending the project and Enterprise
428 Florida, Inc., the office may waive this requirement for a
429 business in a rural community or enterprise zone ~~define an~~
430 ~~"expansion of an existing business" in a rural community or an~~
431 ~~enterprise zone as the expansion of a business resulting in a~~
432 ~~net increase in employment of less than 10 percent at such~~
433 ~~business~~ if the merits of the individual project or the specific
434 circumstances in the community in relationship to the project
435 warrant such action. If the local governing body and Enterprise

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436 Florida, Inc., make such a request, the request must be
437 transmitted in writing and the specific justification for the
438 request must be explained. If the director elects to grant the
439 request, the grant must be stated in writing and the reason for
440 granting the request must be explained.

441 3. The business activity or product for the applicant's
442 project is within an industry ~~or industries that have been~~
443 identified by the office as a target industry business to be
444 ~~high-value-added industries~~ that contributes ~~contribute to the~~
445 ~~area and~~ to the economic growth of the state and the region in
446 which it is located, that produces ~~produce~~ a higher standard of
447 living for residents of this state in the new global economy, or
448 that can be shown to make an equivalent contribution to the area
449 and state's economic progress. ~~The director must approve~~
450 ~~requests to waive the wage requirement for brownfield areas~~
451 ~~designated under s. 376.80 unless it is demonstrated that such~~
452 ~~action is not in the public interest.~~

453 (c) Each application meeting the requirements of paragraph
454 (b) must be submitted to the office for determination of
455 eligibility. The office shall review and evaluate each
456 application based on, but not limited to, the following
457 criteria:

458 1. Expected contributions to the state economy, consistent
459 with the state strategic economic development plan adopted by
460 Enterprise Florida, Inc., ~~taking into account the long-term~~
461 ~~effects of the project and of the applicant on the state~~
462 ~~economy.~~

463 2. The return on investment of the proposed award of tax
464 refunds under this section and the return on investment for

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465 state incentives proposed for the project. The Office of
466 Economic and Demographic Research shall review and evaluate the
467 methodology and model used to calculate the return on investment
468 and report its findings by September 1 of every third year,
469 beginning September 1, 2010, to the President of the Senate and
470 the Speaker of the House of Representatives ~~economic benefit of~~
471 ~~the jobs created by the project in this state, taking into~~
472 ~~account the cost and average wage of each job created.~~

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

475 4. The local financial commitment and support for the
476 project.

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

480 6. The effect of the award ~~any tax refunds granted pursuant~~
481 ~~to this section~~ on the viability of the project and the
482 probability that the project would ~~will~~ be undertaken in this
483 state if such tax refunds are granted to the applicant, ~~taking~~
484 ~~into account the expected long-term commitment of the applicant~~
485 ~~to economic growth and employment in this state.~~

486 7. The expected long-term commitment of the applicant to
487 economic growth and employment to this state resulting from the
488 project.

489 8. A review of the business's past activities in this state
490 or other states, including whether such business has been
491 subjected to criminal or civil fines and penalties. This
492 subparagraph does not require the disclosure of confidential
493 information.

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494 (d) Applications shall be reviewed and certified pursuant
495 to s. 288.061. The office shall include in its review
496 projections of the tax refunds the business would be eligible to
497 receive in each fiscal year based on the creation and
498 maintenance of the net new Florida jobs specified in
499 subparagraph (a)4. as of December 31 of the preceding state
500 fiscal year. If appropriate, the director shall enter into a
501 written agreement with the qualified target industry business
502 pursuant to subsection (5) ~~(4)~~.

503 (e) The director may not certify any target industry
504 business as a qualified target industry business if the value of
505 tax refunds to be included in that letter of certification
506 exceeds the available amount of authority to certify new
507 businesses as determined in s. 288.095(3). However, if the
508 commitments of local financial support represent less than 20
509 percent of the eligible tax refund payments, or to otherwise
510 preserve the viability and fiscal integrity of the program, the
511 director may certify a qualified target industry business to
512 receive tax refund payments of less than the allowable amounts
513 specified in paragraph (3) (b) ~~(2) (b)~~. A letter of certification
514 that approves an application must specify the maximum amount of
515 tax refund that will be available to the qualified industry
516 business in each fiscal year and the total amount of tax refunds
517 that will be available to the business for all fiscal years.

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

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523 (5)~~(4)~~ TAX REFUND AGREEMENT.—

524 (a) Each qualified target industry business must enter into
525 a written agreement with the office which specifies, at a
526 minimum:

527 1. The total number of full-time equivalent jobs in this
528 state that will be dedicated to the project, the average wage of
529 those jobs, the definitions that will apply for measuring the
530 achievement of these terms during the pendency of the agreement,
531 and a time schedule or plan for when such jobs will be in place
532 and active in this state.

533 2. The maximum amount of tax refunds which the qualified
534 target industry business is eligible to receive on the project
535 and the maximum amount of a tax refund that the qualified target
536 industry business is eligible to receive for each fiscal year,
537 based on the job creation and maintenance schedule specified in
538 subparagraph 1.

539 3. That the office may review and verify the financial and
540 personnel records of the qualified target industry business to
541 ascertain whether that business is in compliance with this
542 section.

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

547 5. That local financial support will be annually available
548 and will be paid to the account. The office ~~director~~ may not
549 enter into a written agreement with a qualified target industry
550 business if the local financial support resolution is not passed
551 by the local governing body ~~authority~~ within 90 days after the

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552 office ~~he or she~~ has issued the letter of certification under
553 subsection (4) ~~(3)~~.

554 6. That the office may conduct a review of the business to
555 evaluate whether the business is continuing to contribute to the
556 area's or state's economy.

557 7. That in the event the business does not complete the
558 agreement, the business shall provide the office with the
559 reasons the business was unable to complete the agreement.

560 (b) Compliance with the terms and conditions of the
561 agreement is a condition precedent for the receipt of a tax
562 refund each year. The failure to comply with the terms and
563 conditions of the tax refund agreement results in the loss of
564 eligibility for receipt of all tax refunds previously authorized
565 under this section and the revocation by the director of the
566 certification of the business entity as a qualified target
567 industry business, unless the business is eligible to receive
568 and elects to accept a prorated refund under paragraph (6) (e)
569 ~~(5) (d)~~ or the office grants the business an economic recovery
570 extension ~~economic stimulus exemption~~.

571 1. A qualified target industry business may submit, ~~in~~
572 ~~writing~~, a request to the office for an economic recovery
573 extension ~~economic stimulus exemption~~. The request must provide
574 quantitative evidence demonstrating how negative economic
575 conditions in the business's industry, the effects of the impact
576 of a named hurricane or tropical storm, or specific acts of
577 terrorism affecting the qualified target industry business have
578 prevented the business from complying with the terms and
579 conditions of its tax refund agreement.

580 2. Upon receipt of a request under subparagraph 1., the

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581 director has ~~shall have~~ 45 days to notify the requesting
582 business, in writing, if its extension exemption has been
583 granted or denied. In determining if an extension exemption
584 should be granted, the director shall consider the extent to
585 which negative economic conditions in the requesting business's
586 industry have occurred in the state or 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. The office shall
591 consider current employment statistics for this state by
592 industry, including whether the business's industry had
593 substantial job loss during the prior year, when determining
594 whether an extension exemption shall be granted.

595 3. As a condition for receiving a prorated refund under
596 paragraph (6) (e) ~~(5) (d)~~ or an economic recovery extension
597 ~~economic stimulus exemption~~ under this paragraph, a qualified
598 target industry business must agree to renegotiate its tax
599 refund agreement with the office to, at a minimum, ensure that
600 the terms of the agreement comply with current law and office
601 procedures governing application for and award of tax refunds.
602 Upon approving the award of a prorated refund or granting an
603 economic recovery extension ~~economic stimulus exemption~~, the
604 office shall renegotiate the tax refund agreement with the
605 business as required by this subparagraph. When amending the
606 agreement of a business receiving an economic recovery extension
607 ~~economic stimulus exemption~~, the office may extend the duration
608 of the agreement for a period not to exceed 2 years.

609 4. A qualified target industry business may submit a

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610 request for an economic recovery extension ~~economic-stimulus~~
611 ~~exemption~~ to the office in lieu of any tax refund claim
612 scheduled to be submitted after January 1, 2009, but before July
613 1, 2012 ~~2011~~.

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

617 (c) The agreement must be signed by the director and by an
618 authorized officer of the qualified target industry business
619 within 120 days after the issuance of the letter of
620 certification under subsection (4) ~~(3)~~, but not before passage
621 and receipt of the resolution of local financial support. The
622 office may grant an extension of this period at the written
623 request of the qualified target industry business.

624 (d) The agreement must contain the following legend,
625 clearly printed on its face in bold type of not less than 10
626 points in size: "This agreement is neither a general obligation
627 of the State of Florida, nor is it backed by the full faith and
628 credit of the State of Florida. Payment of tax refunds is ~~are~~
629 conditioned on and subject to specific annual appropriations by
630 the Florida Legislature ~~of moneys~~ sufficient to pay amounts
631 authorized in section 288.106, Florida Statutes."

632 (6) ~~(5)~~ ANNUAL CLAIM FOR REFUND.—

633 (a) To be eligible to claim any scheduled tax refund, a
634 qualified target industry business that has entered into a tax
635 refund agreement with the office under subsection (5) ~~(4)~~ must
636 apply by January 31 of each fiscal year to the office for the
637 tax refund scheduled to be paid from the appropriation for the
638 fiscal year that begins on July 1 following the January 31

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639 claims-submission date. The office may, upon written request,
640 grant a 30-day extension of the filing date.

641 (b) The claim for refund by the qualified target industry
642 business must include a copy of all receipts pertaining to the
643 payment of taxes for which the refund is sought and data related
644 to achievement of each performance item specified in the tax
645 refund agreement. The amount requested as a tax refund may not
646 exceed the amount specified for the relevant fiscal year in that
647 agreement.

648 (c) If the qualified target industry business provides the
649 office with proof that in a single year it has paid an amount of
650 state taxes, from the categories in paragraph (3) (d), which is
651 at least equal to the total amount of tax refunds it may receive
652 through successful completion of its qualified target industry
653 agreement, the office may waive the requirement for proof of
654 taxes paid in future years.

655 (d)~~(e)~~ A tax refund may not be approved for a qualified
656 target industry business unless the required local financial
657 support has been paid into the account for that refund. If the
658 local financial support provided is less than 20 percent of the
659 approved tax refund, the tax refund must be reduced. In no event
660 may the tax refund exceed an amount that is equal to 5 times the
661 amount of the local financial support received. Further, funding
662 from local sources includes any tax abatement granted to that
663 business under s. 196.1995 or the appraised market value of
664 municipal or county land conveyed or provided at a discount to
665 that business. The amount of any tax refund for such business
666 approved under this section must be reduced by the amount of any
667 such tax abatement granted or the value of the land granted; and

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668 the limitations in subsection (3) ~~(2)~~ and paragraph (4) (e)
669 ~~(3) (e)~~ must be reduced by the amount of any such tax abatement
670 or the value of the land granted. A report listing all sources
671 of the local financial support shall be provided to the office
672 when such support is paid to the account.

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

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

680 2. The average wage paid by the business is at least 90
681 percent of the average wage specified in the tax refund
682 agreement, but in no case less than 115 percent of the average
683 private sector wage in the area available at the time of
684 certification, or 150 percent or 200 percent of the average
685 private sector wage if the business requested the additional
686 per-job tax refund authorized in paragraph (3) (b) ~~(2) (b)~~ for
687 wages above those levels.

688
689 The prorated tax refund shall be calculated by multiplying the
690 tax refund amount for which the qualified target industry
691 business would have been eligible, if all applicable
692 requirements had been satisfied, by the percentage of the
693 average employment specified in the tax refund agreement which
694 was achieved, and by the percentage of the average wages
695 specified in the tax refund agreement which was achieved.

696 (f) ~~(e)~~ The director, with such assistance as may be

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697 required from the office, the Department of Revenue, or the
698 Agency for Workforce Innovation, shall, by June 30 following the
699 scheduled date for submission of the tax refund claim, specify
700 by written order the approval or disapproval of the tax refund
701 claim and, if approved, the amount of the tax refund that is
702 authorized to be paid to the qualified target industry business
703 for the annual tax refund. The office may grant an extension of
704 this date on the request of the qualified target industry
705 business for the purpose of filing additional information in
706 support of the claim.

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

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

712 (i)~~(h)~~ Upon approval of the tax refund under paragraphs
713 ~~(e)~~, (d), ~~and (e)~~, and (f), the Chief Financial Officer shall
714 issue a warrant for the amount specified in the written order.
715 If the written order is appealed, the Chief Financial Officer
716 may not issue a warrant for a refund to the qualified target
717 industry business until the conclusion of all appeals of that
718 order.

719 (7)~~(6)~~ ADMINISTRATION.—

720 (a) The office may ~~is authorized to~~ verify information
721 provided in any claim submitted for tax credits under this
722 section with regard to employment and wage levels or the payment
723 of the taxes to the appropriate agency or authority, including
724 the Department of Revenue, the Agency for Workforce Innovation,
725 or any local government or authority.

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726 (b) To facilitate the process of monitoring and auditing
727 applications made under this program, the office may provide a
728 list of qualified target industry businesses to the Department
729 of Revenue, to the Agency for Workforce Innovation, or to any
730 local government or authority. The office may request the
731 assistance of those entities with respect to monitoring jobs,
732 wages, and the payment of the taxes listed in subsection (3)
733 ~~(2)~~.

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

738 (d) Beginning with tax refund agreements signed after July
739 1, 2010, the office shall attempt to ascertain the causes for
740 any business's failure to complete its agreement and shall
741 report its findings and recommendations to the Governor, the
742 President of the Senate, and the Speaker of the House of
743 Representatives. The report shall be submitted by December 1 of
744 each year beginning in 2011.

745 ~~(7) Notwithstanding paragraphs (4) (a) and (5) (c), the~~
746 ~~office may approve a waiver of the local financial support~~
747 ~~requirement for a business located in any of the following~~
748 ~~counties in which businesses received emergency loans~~
749 ~~administered by the office in response to the named hurricanes~~
750 ~~of 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler,~~
751 ~~Glades, Hardee, Hendry, Highlands, Indian River, Lake, Lee,~~
752 ~~Martin, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk,~~
753 ~~Putnam, Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A~~
754 ~~waiver may be granted only if the office determines that the~~

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755 ~~local financial support cannot be provided or that doing so~~
756 ~~would effect a demonstrable hardship on the unit of local~~
757 ~~government providing the local financial support. If the office~~
758 ~~grants a waiver of the local financial support requirement, the~~
759 ~~state shall pay 100 percent of the refund due to an eligible~~
760 ~~business. The waiver shall apply for tax refund applications~~
761 ~~made for fiscal years 2004-2005, 2005-2006, and 2006-2007.~~

762 (8) EXPIRATION.—An applicant may not be certified as
763 qualified under this section after June 30, 2020 ~~2010~~. A tax
764 refund agreement existing on that date shall continue in effect
765 in accordance with its terms.

766 Section 2. Paragraph (e) of subsection (1), subsection (2),
767 paragraphs (a) and (d) of subsection (4), and paragraph (b) of
768 subsection (5) of section 288.107, Florida Statutes, are amended
769 to read:

770 288.107 Brownfield redevelopment bonus refunds.—

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

772 (e) "Eligible business" means:

773 1. A qualified target industry business as defined in s.
774 288.106(2) ~~s. 288.106(1)(e)~~; or

775 2. A business that can demonstrate a fixed capital
776 investment of at least \$2 million in mixed-use business
777 activities, including multiunit housing, commercial, retail, and
778 industrial in brownfield areas, or at least \$500,000 in
779 brownfield areas that do not require site cleanup, and which
780 provides benefits to its employees.

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

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

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

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

797 (a) To be eligible to receive a bonus refund for new
798 Florida jobs created in a brownfield, a business must have been
799 certified as a qualified target industry business under s.
800 288.106 or eligible business as defined in paragraph (1)(e) and
801 must have indicated on the qualified target industry tax refund
802 application form submitted in accordance with s. 288.106(4) ~~s.~~
803 ~~288.106(3)~~ or other similar agreement for other eligible
804 business as defined in paragraph (1)(e) that the project for
805 which the application is submitted is or will be located in a
806 brownfield and that the business is applying for certification
807 as a qualified brownfield business under this section, and must
808 have signed a qualified target industry tax refund agreement
809 with the office which indicates that the business has been
810 certified as a qualified target industry business located in a
811 brownfield and specifies the schedule of brownfield
812 redevelopment bonus refunds that the business may be eligible to

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813 receive in each fiscal year.

814 (d) After entering into a tax refund agreement as provided
815 in s. 288.106 or other similar agreement for other eligible
816 businesses as defined in paragraph (1)(e), an eligible business
817 may receive brownfield redevelopment bonus refunds from the
818 account pursuant to s. 288.106(3)(d) ~~s. 288.106(2)(e)~~.

819 (5) ADMINISTRATION.—

820 (b) To facilitate the process of monitoring and auditing
821 applications made under this program, the office may provide a
822 list of qualified target industry businesses to the Department
823 of Revenue, to the Agency for Workforce Innovation, to the
824 Department of Environmental Protection, or to any local
825 government authority. The office may request the assistance of
826 those entities with respect to monitoring the payment of the
827 taxes listed in s. 288.106(3) ~~s. 288.106(2)~~.

828 Section 3. Section 290.00677, Florida Statutes, is amended
829 to read:

830 290.00677 Rural enterprise zones; special qualifications.—

831 (1) Notwithstanding the enterprise zone residency
832 requirements set out in s. 212.096(1)(c), eligible businesses as
833 defined by s. 212.096(1)(a), located in rural enterprise zones
834 as defined by s. 290.004, may receive the basic minimum credit
835 provided under s. 212.096 for creating a new job and hiring a
836 person residing within the jurisdiction of a rural community
837 county, as defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other
838 provisions of s. 212.096, including, but not limited to, those
839 relating to the award of enhanced credits, apply to such
840 businesses.

841 (2) Notwithstanding the enterprise zone residency

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842 requirements set out in s. 220.03(1)(q), businesses as defined
843 by s. 220.03(1)(c), located in rural enterprise zones as defined
844 in s. 290.004, may receive the basic minimum credit provided
845 under s. 220.181 for creating a new job and hiring a person
846 residing within the jurisdiction of a rural community ~~county~~, as
847 defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other provisions
848 of s. 220.181, including, but not limited to, those relating to
849 the award of enhanced credits apply to such businesses.

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