

By the Committee on Business Development & International Trade and Representatives Hart, Bradley, Murman, Bense, Russell, Wallace, Alexander, Prieguez, Barreiro, Detert, C. Green, Johnson, Kilmer, Goodlette, Farkas and J. Miller

1 A bill to be entitled
 2 An act relating to economic development;
 3 amending s. 14.2015, F.S.; specifying the
 4 programs and funds that the Office of Tourism,
 5 Trade, and Economic Development is authorized
 6 to administer; authorizing the office to expend
 7 interest earned from certain trust fund
 8 investments for program administration;
 9 specifying the duties in connection with which
 10 the office may enter into contracts; creating
 11 the Office of Urban Opportunity within the
 12 Office of Tourism, Trade, and Economic
 13 Development and providing its duties; amending
 14 s. 288.095, F.S.; revising provisions relating
 15 to tax refunds paid from the Economic
 16 Development Incentive Account; providing a
 17 limitation; amending s. 288.1045, F.S.,
 18 relating to the qualified defense contractor
 19 tax refund program; replacing references to the
 20 Department of Commerce and the Division of
 21 Economic Development with the Office of
 22 Tourism, Trade, and Economic Development, and
 23 references to the Secretary of Commerce with
 24 the director of the office; revising provisions
 25 relating to the limitation on such refunds;
 26 extending the expiration date for certification
 27 for such refunds; amending s. 288.106, F.S.,
 28 relating to the tax refund program for
 29 qualified target industry businesses; providing
 30 for determination of number of employees for
 31 businesses registered as a statewide reporting

1 unit; revising requirements to qualify as an
2 expansion of an existing business or a rural
3 county; revising the counties to which the
4 local financial support exemption option
5 applies; revising requirements for determining
6 the amount of tax refund payments; revising the
7 limitations on refunds for projects located in
8 an enterprise zone, rural county, or rural
9 city; authorizing acceptance of a letter from
10 an authorized local economic development agency
11 prior to passage of the required resolution by
12 the local government; authorizing reduction of
13 certain employment requirements for an
14 expanding business in a rural city or county or
15 enterprise zone under certain conditions;
16 revising requirements relating to application
17 approval; authorizing certification of less
18 than allowable refunds under certain
19 conditions; revising requirements relating to
20 the tax refund agreement; authorizing inclusion
21 of the value of county or municipal land
22 conveyed to a business in the required local
23 financial support; authorizing the office to
24 contract with Enterprise Florida, Inc., for
25 certain administrative duties; amending s.
26 288.107, F.S.; correcting a reference; creating
27 the Institute on Urban Policy and Commerce at
28 Florida Agricultural and Mechanical University
29 and providing its purposes and duties;
30 providing for the establishment of regional
31 urban centers; requiring annual reports by the

1 institute and the Governor; providing
2 legislative findings with respect to attracting
3 certain high-impact business facilities to the
4 state; creating the Florida Economic
5 Opportunities Incentive Fund within the Office
6 of Tourism, Trade, and Economic Development and
7 providing for transfer of certain funds
8 thereto; directing Enterprise Florida, Inc., to
9 evaluate proposals for use of funds for such
10 facilities and make recommendations to the
11 office; requiring approval by the Governor;
12 providing for a contract between the director
13 of the office and an approved business with
14 respect to payment of such funds; providing
15 legislative findings with respect to the
16 economic health of small communities; providing
17 conditions for determining when a state of
18 economic emergency exists in a community;
19 providing for notification by a local
20 government entity to the Governor, the office,
21 and Enterprise Florida, Inc., when such
22 conditions exist; authorizing the Governor to
23 waive eligibility criteria for certain programs
24 or activities and take other action to resolve
25 the economic emergency; providing effective
26 dates.

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28 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraph (g) of subsection (2) of section
2 14.2015, Florida Statutes, 1998 Supplement, is amended, and
3 subsection (10) is added to said section, to read:

4 14.2015 Office of Tourism, Trade, and Economic
5 Development; creation; powers and duties.--

6 (2) The purpose of the Office of Tourism, Trade, and
7 Economic Development is to assist the Governor in working with
8 the Legislature, state agencies, business leaders, and
9 economic development professionals to formulate and implement
10 coherent and consistent policies and strategies designed to
11 provide economic opportunities for all Floridians. To
12 accomplish such purposes, the Office of Tourism, Trade, and
13 Economic Development shall:

14 (g)1. Administer the Florida Enterprise Zone Act under
15 ss. 290.001-290.016, the community contribution tax credit
16 program under ss. 220.183 and 624.5105, the tax refund program
17 for qualified target industry businesses under s. 288.106 and
18 for qualified defense contractors under s. 288.1045,
19 high-impact performance incentives under s. 288.108, the base
20 realignment and closure grants under s. 288.980(2)(a), Florida
21 defense planning grants under s. 288.980(3)(a), the Florida
22 Defense Implementation Grant Program under s. 288.980(3)(b),
23 military installation reuse planning and marketing grants
24 under s. 288.980(3)(c), the defense-related business
25 adjustment grant program under s. 288.980(4), the urban
26 high-crime area job tax credit under s. 212.097, the rural job
27 tax credit under s. 212.098, the WAGES pilot matching grant
28 program under s. 8, chapter 97-278, Laws of Florida, the
29 silicon technology sales tax exemption under s. 212.08(5)(j),
30 brownfield redevelopment bonus refunds under s. 288.107, the
31 brownfield areas loan guarantee program under s. 376.86,

1 expedited permitting under s. 403.973(9), contracts for
2 transportation projects under s. 288.063, the sports franchise
3 facility program under s. 288.1162, the professional golf hall
4 of fame facility program under s. 288.1168, the Florida Jobs
5 Siting Act under ss. 403.950-403.972, the Rural Community
6 Development Revolving Loan Fund under s. 288.065, the Regional
7 Rural Development Grants Program under s. 288.018, the
8 Certified Capital Company Act under s. 288.99, the Florida
9 State Rural Development Council, and the Rural Economic
10 Development Initiative. Notwithstanding the provisions of the
11 laws cited in this subparagraph, the office may expend
12 interest earned from the investment of program funds deposited
13 in the Economic Development Trust Fund, the Grants and
14 Donations Trust Fund, the Brownfield Property Ownership
15 Clearance Assistance Revolving Loan Trust Fund, and the
16 Economic Development Transportation Trust Fund to contract for
17 the administration of the programs, or portions of the
18 programs, enumerated in this subparagraph or similar programs
19 assigned to the office by statute or through the
20 appropriations process. These expenditures shall be subject
21 to review under chapter 216.

22 2. The office may enter into contracts in connection
23 with the fulfillment of its duties concerning the Florida
24 First Business Bond Pool under chapter 159, tax incentives
25 under chapters 212 and 220, tax incentives under the Certified
26 Capital Company Act in chapter 288, foreign offices under
27 chapter 288, the Enterprise Zone program under chapter 290,
28 the Seaport Employment Training program under chapter 311, the
29 Florida Professional Sports Team License Plates under chapter
30 320, Spaceport Florida under chapter 331, Job Siting and
31 Expedited Permitting under chapter 403, the Rural Community

1 Development Revolving Loan Fund under s. 288.065, the Regional
2 Rural Development Grants Program under s. 288.018, the
3 Certified Capital Company Act under s. 288.99, the Florida
4 State Rural Development Council, the Rural Economic
5 Development Initiative, the tax refund program for qualified
6 target industry businesses under s. 288.106 and for qualified
7 defense contractors under s. 288.1045, high-impact performance
8 incentives under s. 288.108, the base realignment and closure
9 grants under s. 288.980(2)(a), Florida defense planning grants
10 under s. 288.980(3)(a), the Florida Defense Implementation
11 Grant Program under s. 288.980(3)(b), military installation
12 reuse planning and marketing grants under s. 288.980(3)(c),
13 the defense-related business adjustment grant program under s.
14 288.980(4), the urban high-crime area job tax credit under s.
15 212.097, the rural job tax credit under s. 212.098, the WAGES
16 pilot matching grant program under s. 8, chapter 97-278, Laws
17 of Florida, the silicon technology sales tax exemption under
18 s. 212.08(5)(j), brownfield redevelopment bonus refunds under
19 s. 288.107, the brownfield areas loan guarantee program under
20 s. 376.86, expedited permitting under 403.973(9), contracts
21 for transportation projects under s. 288.063, and in carrying
22 out other functions that are specifically assigned to the
23 office by law or through the appropriations process.

24 (10)(a) The Office of Urban Opportunity is created
25 within the Office of Tourism, Trade, and Economic Development.
26 The director of the Office of Urban Opportunity shall be
27 appointed by and serve at the pleasure of the Governor.

28 (b) The purpose of the Office of Urban Opportunity
29 shall be to administer the Front Porch Florida initiative, a
30 comprehensive, community-based urban core redevelopment
31 program that will empower urban core residents to craft

1 solutions to the unique challenges of each designated
2 community.

3 Section 2. Paragraphs (a) and (b) of subsection (3) of
4 section 288.095, Florida Statutes, are amended to read:

5 288.095 Economic Development Trust Fund.--

6 (3)(a) ~~Contingent upon an annual appropriation by the~~
7 ~~Legislature,~~The Office of Tourism, Trade, and Economic
8 Development may approve applications for certification tax
9 refunds pursuant to ss. 288.1045(3),~~and~~ 288.106(4), ~~and~~
10 ~~288.107.~~ However, in no case shall the total state share of
11 tax refund payments scheduled in all active certifications for
12 any one fiscal year exceed \$35 million.~~The office may not~~
13 ~~approve tax refunds in excess of the amount appropriated to~~
14 ~~the Economic Development Incentives Account for such tax~~
15 ~~refunds, for a fiscal year pursuant to paragraph (b).~~

16 (b) The total amount of tax refund claims ~~refunds~~
17 approved for payment by the Office of Tourism, Trade, and
18 Economic Development based on actual project performance
19 pursuant to ss. 288.1045, 288.106, and 288.107 shall not
20 exceed the amount appropriated to the Economic Development
21 Incentives Account for such purposes for the fiscal year. In
22 the event the Legislature does not appropriate an amount
23 sufficient to satisfy projections by the office for tax
24 refunds under ss. 288.1045, 288.106, and 288.107 in a fiscal
25 year, the Office of Tourism, Trade, and Economic Development
26 shall, not later than July 15 of such year, determine the
27 proportion of each refund claim which shall be paid by
28 dividing the amount appropriated for tax refunds for the
29 fiscal year by the projected total of refund claims for the
30 fiscal year. The amount of each claim for a tax refund shall
31 be multiplied by the resulting quotient. If, after the payment

1 of all such refund claims, funds remain in the Economic
2 Development Incentives Account for tax refunds, the office
3 shall recalculate the proportion for each refund claim and
4 adjust the amount of each claim accordingly.

5 Section 3. Effective June 30, 1999, section 288.1045,
6 Florida Statutes, is amended to read:

7 288.1045 Qualified defense contractor tax refund
8 program.--

9 (1) DEFINITIONS.--As used in this section:

10 (a) "Consolidation of a Department of Defense
11 contract" means the consolidation of one or more of an
12 applicant's facilities under one or more Department of Defense
13 contracts either from outside this state or from inside and
14 outside this state, into one or more of the applicant's
15 facilities inside this state.

16 (b) "Average wage in the area" means the average of
17 all wages and salaries in the state, the county, or in the
18 standard metropolitan area in which the business unit is
19 located.

20 (c) "Applicant" means any business entity that holds a
21 valid Department of Defense contract or any business entity
22 that is a subcontractor under a valid Department of Defense
23 contract or any business entity that holds a valid contract
24 for the reuse of a defense-related facility, including all
25 members of an affiliated group of corporations as defined in
26 s. 220.03(1)(b).

27 (d) "Office"~~"Division"~~ means the Office of Tourism,
28 Trade, and Economic Development ~~Division of Economic~~
29 ~~Development of the Department of Commerce.~~

30 (e) "Department of Defense contract" means a
31 competitively bid Department of Defense contract or a

1 competitively bid federal agency contract issued on behalf of
2 the Department of Defense for manufacturing, assembling,
3 fabricating, research, development, or design with a duration
4 of 2 or more years, but excluding any contract to provide
5 goods, improvements to real or tangible property, or services
6 directly to or for any particular military base or
7 installation in this state.

8 (f) "New Department of Defense contract" means a
9 Department of Defense contract entered into after the date
10 application for certification as a qualified applicant is made
11 and after January 1, 1994.

12 (g) "Jobs" means full-time equivalent positions,
13 consistent with the use of such terms by the Department of
14 Labor and Employment Security for the purpose of unemployment
15 compensation tax, resulting directly from a project in this
16 state. This number does not include temporary construction
17 jobs involved with the construction of facilities for the
18 project.

19 (h) "Nondefense production jobs" means employment
20 exclusively for activities that, directly or indirectly, are
21 unrelated to the Department of Defense.

22 (i) "Project" means any business undertaking in this
23 state under a new Department of Defense contract,
24 consolidation of a Department of Defense contract, or
25 conversion of defense production jobs over to nondefense
26 production jobs or reuse of defense-related facilities.

27 (j) "Qualified applicant" means an applicant that has
28 been approved by the director ~~secretary~~ to be eligible for tax
29 refunds pursuant to this section.

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1 (k) "Director"~~"Secretary"~~ means the director of the
2 Office of Tourism, Trade, and Economic Development ~~Secretary~~
3 ~~of Commerce.~~

4 (l) "Taxable year" means the same as in s.
5 220.03(1)(z).

6 (m) "Fiscal year" means the fiscal year of the state.

7 (n) "Business unit" means an employing unit, as
8 defined in s. 443.036, that is registered with the Department
9 of Labor and Employment Security for unemployment compensation
10 purposes or means a subcategory or division of an employing
11 unit that is accepted by the Department of Labor and
12 Employment Security as a reporting unit.

13 (o) "Local financial support" means funding from local
14 sources, public or private, which is paid to the Economic
15 Development Trust Fund and which is equal to 20 percent of the
16 annual tax refund for a qualified applicant. Local financial
17 support may include excess payments made to a utility company
18 under a designated program to allow decreases in service by
19 the utility company under conditions, regardless of when
20 application is made. A qualified applicant may not provide,
21 directly or indirectly, more than 5 percent of such funding in
22 any fiscal year. The sources of such funding may not include,
23 directly or indirectly, state funds appropriated from the
24 General Revenue Fund or any state trust fund, excluding tax
25 revenues shared with local governments pursuant to law.

26 (p) "Contract for reuse of a defense-related facility"
27 means a contract with a duration of 2 or more years for the
28 use of a facility for manufacturing, assembling, fabricating,
29 research, development, or design of tangible personal
30 property, but excluding any contract to provide goods,
31 improvements to real or tangible property, or services

1 directly to or for any particular military base or
2 installation in this state. Such facility must be located
3 within a port, as defined in s. 313.21, and have been occupied
4 by a business entity that held a valid Department of Defense
5 contract or occupied by any branch of the Armed Forces of the
6 United States, within 1 year of any contract being executed
7 for the reuse of such facility. A contract for reuse of a
8 defense-related facility may not include any contract for
9 reuse of such facility for any Department of Defense contract
10 for manufacturing, assembling, fabricating, research,
11 development, or design.

12 (q) "Local financial support exemption option" means
13 the option to exercise an exemption from the local financial
14 support requirement available to any applicant whose project
15 is located in a county designated by the Rural Economic
16 Development Initiative, if the county commissioners of the
17 county in which the project will be located adopt a resolution
18 requesting that the applicant's project be exempt from the
19 local financial support requirement. Any applicant that
20 exercises this option is not eligible for more than 80 percent
21 of the total tax refunds allowed such applicant under this
22 section.

23 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.--

24 (a) There shall be allowed, from the Economic
25 Development Trust Fund, a refund to a qualified applicant for
26 the amount of eligible taxes certified by the director
27 ~~secretary~~ which were paid by such qualified applicant. The
28 total amount of refunds for all fiscal years for each
29 qualified applicant shall be determined pursuant to subsection
30 (3). The annual amount of a refund to a qualified applicant
31 shall be determined pursuant to subsection (5).

1 (b) A qualified applicant may not be qualified for any
2 project to receive more than \$5,000 times the number of jobs
3 provided in the tax refund agreement pursuant to subparagraph
4 (4)(a)1. A qualified applicant may not receive refunds of more
5 than 25 percent of the total tax refunds provided in the tax
6 refund agreement pursuant to subparagraph (4)(a)1. in any
7 fiscal year, provided that no qualified applicant may receive
8 more than \$2.5 million in tax refunds pursuant to this section
9 in any fiscal year.

10 (c) A qualified applicant may not receive more than
11 \$7.5 million in tax refunds pursuant to this section in all
12 fiscal years.

13 (d) Contingent upon an annual appropriation by the
14 Legislature, the director ~~secretary~~ may approve no not more
15 ~~than the lesser of \$25 million~~ in tax refunds than ~~or~~ the
16 amount appropriated to the Economic Development Trust Fund for
17 tax refunds, for a fiscal year pursuant to subsection (5) and
18 s. 288.095.

19 (e) For the first 6 months of each fiscal year, the
20 director ~~secretary~~ shall set aside 30 percent of the amount
21 appropriated for refunds pursuant to this section by the
22 Legislature to provide tax refunds only to qualified
23 applicants who employ 500 or fewer full-time employees in this
24 state. Any unencumbered funds remaining undisbursed from this
25 set-aside at the end of the 6-month period may be used to
26 provide tax refunds for any qualified applicants pursuant to
27 this section.

28 (f) After entering into a tax refund agreement
29 pursuant to subsection (4), a qualified applicant may receive
30 refunds from the Economic Development Trust Fund for the
31 following taxes due and paid by the qualified applicant

- 1 beginning with the applicant's first taxable year that begins
2 after entering into the agreement:
- 3 1. Taxes on sales, use, and other transactions paid
4 pursuant to chapter 212.
 - 5 2. Corporate income taxes paid pursuant to chapter
6 220.
 - 7 3. Intangible personal property taxes paid pursuant to
8 chapter 199.
 - 9 4. Emergency excise taxes paid pursuant to chapter
10 221.
 - 11 5. Excise taxes paid on documents pursuant to chapter
12 201.
 - 13 6. Ad valorem taxes paid, as defined in s.
14 220.03(1)(a) on June 1, 1996.

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16 However, a qualified applicant may not receive a tax refund
17 pursuant to this section for any amount of credit, refund, or
18 exemption granted such contractor for any of such taxes. If a
19 refund for such taxes is provided by the office ~~Department of~~
20 ~~Commerce~~, which taxes are subsequently adjusted by the
21 application of any credit, refund, or exemption granted to the
22 qualified applicant other than that provided in this section,
23 the qualified applicant shall reimburse the Economic
24 Development Trust Fund for the amount of such credit, refund,
25 or exemption. A qualified applicant must notify and tender
26 payment to the office ~~Department of Commerce~~ within 20 days
27 after receiving a credit, refund, or exemption, other than
28 that provided in this section.

29 (g) Any qualified applicant who fraudulently claims
30 this refund is liable for repayment of the refund to the
31 Economic Development Trust Fund plus a mandatory penalty of

1 200 percent of the tax refund which shall be deposited into
2 the General Revenue Fund. Any qualified applicant who
3 fraudulently claims this refund commits a felony of the third
4 degree, punishable as provided in s. 775.082, s. 775.083, or
5 s. 775.084.

6 (h) Funds made available pursuant to this section may
7 not be expended in connection with the relocation of a
8 business from one community to another community in this state
9 unless the Office of Tourism, Trade, and Economic Development
10 determines that without such relocation the business will move
11 outside this state or determines that the business has a
12 compelling economic rationale for the relocation which creates
13 additional jobs.

14 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
15 DETERMINATION.--

16 (a) To apply for certification as a qualified
17 applicant pursuant to this section, an applicant must file an
18 application with the office ~~division~~ which satisfies the
19 requirements of paragraphs (b) and (e), paragraphs (c) and
20 (e), or paragraphs (d) and (e). An applicant may not apply for
21 certification pursuant to this section after a proposal has
22 been submitted for a new Department of Defense contract, after
23 the applicant has made the decision to consolidate an existing
24 Department of Defense contract in this state for which such
25 applicant is seeking certification, or after the applicant has
26 made the decision to convert defense production jobs to
27 nondefense production jobs for which such applicant is seeking
28 certification.

29 (b) Applications for certification based on the
30 consolidation of a Department of Defense contract or a new
31 Department of Defense contract must be submitted to the office

1 ~~division~~ as prescribed by the office ~~Department of Commerce~~
2 and must include, but are not limited to, the following
3 information:

4 1. The applicant's federal employer identification
5 number, the applicant's Florida sales tax registration number,
6 and a notarized signature of an officer of the applicant.

7 2. The permanent location of the manufacturing,
8 assembling, fabricating, research, development, or design
9 facility in this state at which the project is or is to be
10 located.

11 3. The Department of Defense contract numbers of the
12 contract to be consolidated, the new Department of Defense
13 contract number, or the "RFP" number of a proposed Department
14 of Defense contract.

15 4. The date the contract was executed or is expected
16 to be executed, and the date the contract is due to expire or
17 is expected to expire.

18 5. The commencement date for project operations under
19 the contract in this state.

20 6. The number of full-time equivalent jobs in this
21 state which are or will be dedicated to the project during the
22 year and the average wage of such jobs.

23 7. The total number of full-time equivalent employees
24 employed by the applicant in this state.

25 8. The percentage of the applicant's gross receipts
26 derived from Department of Defense contracts during the 5
27 taxable years immediately preceding the date the application
28 is submitted.

29 9. The amount of:

30 a. Taxes on sales, use, and other transactions paid
31 pursuant to chapter 212;

1 b. Corporate income taxes paid pursuant to chapter
2 220;
3 c. Intangible personal property taxes paid pursuant to
4 chapter 199;
5 d. Emergency excise taxes paid pursuant to chapter
6 221;
7 e. Excise taxes paid on documents pursuant to chapter
8 201; and
9 f. Ad valorem taxes paid
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11 during the 5 fiscal years immediately preceding the date of
12 the application, and the projected amounts of such taxes to be
13 due in the 3 fiscal years immediately following the date of
14 the application.
15 10. The estimated amount of tax refunds to be claimed
16 in each fiscal year.
17 11. A brief statement concerning the applicant's need
18 for tax refunds, and the proposed uses of such refunds by the
19 applicant.
20 12. A resolution adopted by the county commissioners
21 of the county in which the project will be located, which
22 recommends the applicant be approved as a qualified applicant,
23 and which indicates that the necessary commitments of local
24 financial support for the applicant exist. Prior to the
25 adoption of the resolution, the county commission may review
26 the proposed public or private sources of such support and
27 determine whether the proposed sources of local financial
28 support can be provided or, for any applicant whose project is
29 located in a county designated by the Rural Economic
30 Development Initiative, a resolution adopted by the county
31 commissioners of such county requesting that the applicant's

1 project be exempt from the local financial support
2 requirement.

3 13. Any additional information requested by the office
4 ~~division~~.

5 (c) Applications for certification based on the
6 conversion of defense production jobs to nondefense production
7 jobs must be submitted to the office division as prescribed by
8 the office ~~Department of Commerce~~ and must include, but are
9 not limited to, the following information:

10 1. The applicant's federal employer identification
11 number, the applicant's Florida sales tax registration number,
12 and a notarized signature of an officer of the applicant.

13 2. The permanent location of the manufacturing,
14 assembling, fabricating, research, development, or design
15 facility in this state at which the project is or is to be
16 located.

17 3. The Department of Defense contract numbers of the
18 contract under which the defense production jobs will be
19 converted to nondefense production jobs.

20 4. The date the contract was executed, and the date
21 the contract is due to expire or is expected to expire, or was
22 canceled.

23 5. The commencement date for the nondefense production
24 operations in this state.

25 6. The number of full-time equivalent jobs in this
26 state which are or will be dedicated to the nondefense
27 production project during the year and the average wage of
28 such jobs.

29 7. The total number of full-time equivalent employees
30 employed by the applicant in this state.

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1 8. The percentage of the applicant's gross receipts
2 derived from Department of Defense contracts during the 5
3 taxable years immediately preceding the date the application
4 is submitted.

5 9. The amount of:

6 a. Taxes on sales, use, and other transactions paid
7 pursuant to chapter 212;

8 b. Corporate income taxes paid pursuant to chapter
9 220;

10 c. Intangible personal property taxes paid pursuant to
11 chapter 199;

12 d. Emergency excise taxes paid pursuant to chapter
13 221;

14 e. Excise taxes paid on documents pursuant to chapter
15 201; and

16 f. Ad valorem taxes paid
17

18 during the 5 fiscal years immediately preceding the date of
19 the application, and the projected amounts of such taxes to be
20 due in the 3 fiscal years immediately following the date of
21 the application.

22 10. The estimated amount of tax refunds to be claimed
23 in each fiscal year.

24 11. A brief statement concerning the applicant's need
25 for tax refunds, and the proposed uses of such refunds by the
26 applicant.

27 12. A resolution adopted by the county commissioners
28 of the county in which the project will be located, which
29 recommends the applicant be approved as a qualified applicant,
30 and which indicates that the necessary commitments of local
31 financial support for the applicant exist. Prior to the

1 adoption of the resolution, the county commission may review
2 the proposed public or private sources of such support and
3 determine whether the proposed sources of local financial
4 support can be provided or, for any applicant whose project is
5 located in a county designated by the Rural Economic
6 Development Initiative, a resolution adopted by the county
7 commissioners of such county requesting that the applicant's
8 project be exempt from the local financial support
9 requirement.

10 13. Any additional information requested by the office
11 ~~division~~.

12 (d) Applications for certification based on a contract
13 for reuse of a defense-related facility must be submitted to
14 the office division as prescribed by the office ~~Department of~~
15 ~~Commerce~~ and must include, but are not limited to, the
16 following information:

17 1. The applicant's Florida sales tax registration
18 number and a notarized signature of an officer of the
19 applicant.

20 2. The permanent location of the manufacturing,
21 assembling, fabricating, research, development, or design
22 facility in this state at which the project is or is to be
23 located.

24 3. The business entity holding a valid Department of
25 Defense contract or branch of the Armed Forces of the United
26 States that previously occupied the facility, and the date
27 such entity last occupied the facility.

28 4. A copy of the contract to reuse the facility, or
29 such alternative proof as may be prescribed by the office
30 ~~department~~ that the applicant is seeking to contract for the
31 reuse of such facility.

- 1 5. The date the contract to reuse the facility was
2 executed or is expected to be executed, and the date the
3 contract is due to expire or is expected to expire.
- 4 6. The commencement date for project operations under
5 the contract in this state.
- 6 7. The number of full-time equivalent jobs in this
7 state which are or will be dedicated to the project during the
8 year and the average wage of such jobs.
- 9 8. The total number of full-time equivalent employees
10 employed by the applicant in this state.
- 11 9. The amount of:
- 12 a. Taxes on sales, use, and other transactions paid
13 pursuant to chapter 212.
- 14 b. Corporate income taxes paid pursuant to chapter
15 220.
- 16 c. Intangible personal property taxes paid pursuant to
17 chapter 199.
- 18 d. Emergency excise taxes paid pursuant to chapter
19 221.
- 20 e. Excise taxes paid on documents pursuant to chapter
21 201.
- 22 f. Ad valorem taxes paid during the 5 fiscal years
23 immediately preceding the date of the application, and the
24 projected amounts of such taxes to be due in the 3 fiscal
25 years immediately following the date of the application.
- 26 10. The estimated amount of tax refunds to be claimed
27 in each fiscal year.
- 28 11. A brief statement concerning the applicant's need
29 for tax refunds, and the proposed uses of such refunds by the
30 applicant.
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1 12. A resolution adopted by the county commissioners
2 of the county in which the project will be located, which
3 recommends the applicant be approved as a qualified applicant,
4 and which indicates that the necessary commitments of local
5 financial support for the applicant exist. Prior to the
6 adoption of the resolution, the county commission may review
7 the proposed public or private sources of such support and
8 determine whether the proposed sources of local financial
9 support can be provided or, for any applicant whose project is
10 located in a county designated by the Rural Economic
11 Development Initiative, a resolution adopted by the county
12 commissioners of such county requesting that the applicant's
13 project be exempt from the local financial support
14 requirement.

15 13. Any additional information requested by the office
16 division.

17 (e) To qualify for review by the office division, the
18 application of an applicant must, at a minimum, establish the
19 following to the satisfaction of the office division:

20 1. The jobs proposed to be provided under the
21 application, pursuant to subparagraph (b)6. or subparagraph
22 (c)6., must pay an estimated annual average wage equaling at
23 least 115 percent of the average wage in the area where the
24 project is to be located.

25 2. The consolidation of a Department of Defense
26 contract must result in a net increase of at least 25 percent
27 in the number of jobs at the applicant's facilities in this
28 state or the addition of at least 80 jobs at the applicant's
29 facilities in this state.

30 3. The conversion of defense production jobs to
31 nondefense production jobs must result in net increases in

1 nondefense employment at the applicant's facilities in this
2 state.

3 4. The Department of Defense contract cannot allow the
4 business to include the costs of relocation or retooling in
5 its base as allowable costs under a cost-plus, or similar,
6 contract.

7 5. A business unit of the applicant must have derived
8 not less than 70 percent of its gross receipts in this state
9 from Department of Defense contracts over the applicant's last
10 fiscal year, and must have derived not less than 80 percent of
11 its gross receipts in this state from Department of Defense
12 contracts over the 5 years preceding the date an application
13 is submitted pursuant to this section. This subparagraph does
14 not apply to any application for certification based on a
15 contract for reuse of a defense-related facility.

16 6. The reuse of a defense-related facility must result
17 in the creation of at least 100 jobs at such facility.

18 (f) Each application meeting the requirements of
19 paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs
20 (d) and (e) must be submitted to the office ~~division~~ for a
21 determination of eligibility. The office ~~division~~ shall
22 review, evaluate, and score each application based on, but not
23 limited to, the following criteria:

24 1. Expected contributions to the state strategic
25 economic development plan adopted by Enterprise Florida, Inc.,
26 taking into account the extent to which the project
27 contributes to the state's high-technology base, and the
28 long-term impact of the project and the applicant on the
29 state's economy.

30 2. The economic benefit of the jobs created or
31 retained by the project in this state, taking into account the

1 cost and average wage of each job created or retained, and the
2 potential risk to existing jobs.

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

5 4. The local commitment and support for the project
6 and applicant.

7 5. The impact of the project on the local community,
8 taking into account the unemployment rate for the county where
9 the project will be located.

10 6. The dependence of the local community on the
11 defense industry.

12 7. The impact of any tax refunds granted pursuant to
13 this section on the viability of the project and the
14 probability that the project will occur in this state if such
15 tax refunds are granted to the applicant, taking into account
16 the expected long-term commitment of the applicant to economic
17 growth and employment in this state.

18 8. The length of the project, or the expected
19 long-term commitment to this state resulting from the project.

20 (g) The office ~~division~~ shall forward its written
21 findings and evaluation on each application meeting the
22 requirements of paragraphs (b) and (e), paragraphs (c) and
23 (e), or paragraphs (d) and (e) to the director ~~secretary~~
24 within 60 calendar days of receipt of a complete application.
25 The office ~~division~~ shall notify each applicant when its
26 application is complete, and when the 60-day period begins. In
27 its written report to the director ~~secretary~~, the office
28 ~~division~~ shall specifically address each of the factors
29 specified in paragraph (f), and shall make a specific
30 assessment with respect to the minimum requirements
31 established in paragraph (e). The office ~~division~~ shall

1 include in its report projections of the tax refund claims
2 that will be sought by the applicant in each fiscal year based
3 on the information submitted in the application.

4 (h) Within 30 days after receipt of the office's
5 ~~division's~~ findings and evaluation, the director ~~secretary~~
6 shall enter a final order that either approves or disapproves
7 an application. The decision must be in writing and provide
8 the justifications for either approval or disapproval. If
9 appropriate, the director ~~secretary~~ shall enter into a written
10 agreement with the qualified applicant pursuant to subsection
11 (4).

12 (i) The director ~~secretary~~ may not enter any final
13 order that certifies any applicant as a qualified applicant
14 when the value of tax refunds to be included in that final
15 order exceeds the available amount of authority to enter final
16 orders as determined pursuant to s. 288.095(3)~~aggregate~~
17 ~~amount of tax refunds for all qualified applicants projected~~
18 ~~by the division in any fiscal year exceeds the lesser of \$25~~
19 ~~million or the amount appropriated for tax refunds for that~~
20 ~~fiscal year.~~ A final order that approves an application must
21 specify the maximum amount of a tax refund that is to be
22 available to the contractor in each fiscal year and the total
23 amount of tax refunds for all fiscal years.

24 (j) This section does not create a presumption that an
25 applicant should receive any tax refunds under this section.

26 (4) QUALIFIED DEFENSE CONTRACTOR TAX REFUND
27 AGREEMENT.--

28 (a) A qualified applicant shall enter into a written
29 agreement with the office ~~department~~ containing, but not
30 limited to, the following:

31

1 1. The total number of full-time equivalent jobs in
2 this state that are or will be dedicated to the qualified
3 applicant's project, the average wage of such jobs, the
4 definitions that will apply for measuring the achievement of
5 these terms during the pendency of the agreement, and a time
6 schedule or plan for when such jobs will be in place and
7 active in this state. This information must be the same as the
8 information contained in the application submitted by the
9 contractor pursuant to subsection (3).

10 2. The maximum amount of a refund that the qualified
11 applicant is eligible to receive in each fiscal year.

12 3. An agreement with the office ~~department~~ allowing
13 the office ~~department~~ to review and verify the financial and
14 personnel records of the qualified applicant to ascertain
15 whether the qualified applicant is complying with the
16 requirements of this section.

17 4. The date after which, each fiscal year, the
18 qualified applicant may file an annual claim pursuant to
19 subsection (5).

20 5. That local financial support shall be annually
21 available and will be paid to the Economic Development Trust
22 Fund.

23 (b) Compliance with the terms and conditions of the
24 agreement is a condition precedent for receipt of tax refunds
25 each year. The failure to comply with the terms and conditions
26 of the agreement shall result in the loss of eligibility for
27 receipt of all tax refunds previously authorized pursuant to
28 this section, and the revocation of the certification as a
29 qualified applicant by the director ~~secretary~~.

30
31

1 (c) The agreement shall be signed by the director
2 ~~secretary~~ and the authorized officer of the qualified
3 applicant.

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

7
8 "This agreement is neither a general obligation
9 of the State of Florida, nor is it backed by
10 the full faith and credit of the State of
11 Florida. Payment of tax refunds are conditioned
12 on and subject to specific annual
13 appropriations by the Florida Legislature of
14 funds sufficient to pay amounts authorized in
15 s. 288.1045 ~~288.104~~, Florida Statutes."
16

17 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE
18 CONTRACTOR.--

19 (a) Qualified applicants who have entered into a
20 written agreement with the office ~~department~~ pursuant to
21 subsection (4) and who have entered into a valid new
22 Department of Defense contract, commenced the consolidation of
23 a Department of Defense contract, commenced the conversion of
24 defense production jobs to nondefense production jobs or who
25 have entered into a valid contract for reuse of a
26 defense-related facility may apply once each fiscal year to
27 the office ~~Department of Commerce~~ for tax refunds. The
28 application must be made on or after the date contained in the
29 agreement entered into pursuant to subsection (4) and must
30 include a notarized signature of an officer of the applicant.
31

1 (b) The claim for refund by the qualified applicant
2 must include a copy of all receipts pertaining to the payment
3 of taxes for which a refund is sought, and data related to
4 achieving each performance item contained in the tax refund
5 agreement pursuant to subsection (4). The amount requested as
6 a tax refund may not exceed the amount for the fiscal year in
7 the written agreement entered pursuant to subsection (4).

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

23 (d) The director ~~secretary~~, with assistance from the
24 office division, the Department of Revenue, and the Department
25 of Labor and Employment Security, shall determine the amount
26 of the tax refund that is authorized for the qualified
27 applicant for the fiscal year in a written final order within
28 30 days after the date the claim for the annual tax refund is
29 received by the office ~~Department of Commerce~~.

30 (e) The total amount of tax refunds approved by the
31 director ~~secretary~~ under this section in any fiscal year may

1 not exceed the amount appropriated to the Economic Development
2 Trust Fund for such purposes for the fiscal year. If the
3 Legislature does not appropriate an amount sufficient to
4 satisfy projections by the office ~~division~~ for tax refunds in
5 a fiscal year, the director ~~secretary~~ shall, not later than
6 July 15 of such year, determine the proportion of each refund
7 claim which shall be paid by dividing the amount appropriated
8 for tax refunds for the fiscal year by the projected total
9 amount of refund claims for the fiscal year. The amount of
10 each claim for a tax refund shall be multiplied by the
11 resulting quotient. If, after the payment of all such refund
12 claims, funds remain in the Economic Development Trust Fund
13 for tax refunds, the director ~~secretary~~ shall recalculate the
14 proportion for each refund claim and adjust the amount of each
15 claim accordingly.

16 (f) Upon approval of the tax refund pursuant to
17 paragraphs (c) and (d), the Comptroller shall issue a warrant
18 for the amount included in the final order. In the event of
19 any appeal of the final order, the Comptroller may not issue a
20 warrant for a refund to the qualified applicant until the
21 conclusion of all appeals of the final order.

22 (g) A prorated tax refund, less a 5 percent penalty,
23 shall be approved for a qualified applicant provided all other
24 applicable requirements have been satisfied and the applicant
25 proves to the satisfaction of the director that it has
26 achieved at least 80 percent of its projected employment.

27 (6) ADMINISTRATION.--

28 (a) The office ~~may department~~ shall adopt rules
29 pursuant to chapter 120 for the administration of this
30 section.

31

1 (b) The office ~~department~~ may verify information
2 provided in any claim submitted for tax credits under this
3 section with regard to employment and wage levels or the
4 payment of the taxes with the appropriate agency or authority
5 including the Department of Revenue, the Department of Labor
6 and Employment Security, or any local government or authority.

7 (c) To facilitate the process of monitoring and
8 auditing applications made under this program, the office
9 ~~department~~ may provide a list of qualified applicants to the
10 Department of Revenue, the Department of Labor and Employment
11 Security, or to any local government or authority. The office
12 ~~department~~ may request the assistance of said entities with
13 respect to monitoring the payment of the taxes listed in
14 subsection (2).

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

26 (7) EXPIRATION.--An applicant may not be certified as
27 qualified under this section after June 30, 2003 ~~1999~~.

28 Section 4. Section 288.106, Florida Statutes, 1998
29 Supplement, is amended to read:

30 288.106 Tax refund program for qualified target
31 industry businesses.--

1 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.--The
2 Legislature finds that attracting, retaining, and providing
3 favorable conditions for the growth of target industries
4 provides high-quality employment opportunities for citizens of
5 this state and enhances the economic foundations of this
6 state. It is the policy of this state to encourage the growth
7 of a high-value-added employment and economic base by
8 providing tax refunds to qualified target industry businesses
9 that create new high-wage employment opportunities in this
10 state by expanding existing businesses within this state or by
11 bringing new businesses to this state.

12 (2) DEFINITIONS.--As used in this section:

13 (a) "Account" means the Economic Development
14 Incentives Account within the Economic Development Trust Fund
15 established under s. 288.095.

16 **(b) "Authorized local economic development agency"**
17 **means any public or private entity, including those defined by**
18 **s. 288.075(1), authorized by a county or municipality to**
19 **promote the general business or industrial interests of that**
20 **county or municipality.**

21 ~~(c)~~**(b)** "Average private sector wage in the area" means
22 the statewide private sector average wage or the average of
23 all private sector wages and salaries in the county or in the
24 standard metropolitan area in which the business is located.

25 ~~(d)~~**(e)** "Business" means an employing unit, as defined
26 in s. 443.036, which is registered with the Department of
27 Labor and Employment Security for unemployment compensation
28 purposes or a subcategory or division of an employing unit
29 which is accepted by the Department of Labor and Employment
30 Security as a reporting unit. **In the event a business chooses**
31 **to register with the Department of Labor and Employment**

1 Security as a statewide reporting unit, only the employees
2 located at the physical site of the qualified target industry
3 project shall be considered employees of the business.

4 (e)~~(d)~~ "Corporate headquarters business" means an
5 international, national, or regional headquarters office of a
6 multinational or multistate business enterprise or national
7 trade association, whether separate from or connected with
8 other facilities used by such business.

9 (f)~~(e)~~ "Office" means the Office of Tourism, Trade,
10 and Economic Development.

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

13 (h)~~(g)~~ "Expansion of an existing business" means the
14 expansion of an existing Florida ~~a~~ business by or through
15 additions to real and personal property ~~on a site colocated~~
16 ~~with a commercial or industrial operation owned by the same~~
17 ~~business~~, resulting in a net increase in employment of not
18 less than 10 percent at such business.

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

21 (j)~~(i)~~ "Jobs" means full-time equivalent positions, as
22 such terms are consistent with terms used by the Department of
23 Labor and Employment Security and the United States Department
24 of Labor for purposes of unemployment compensation tax
25 administration and employment estimation, resulting directly
26 from a project in this state. This number shall not include
27 temporary construction jobs involved with the construction of
28 facilities for the project or any jobs which have previously
29 been included in any application for tax refunds under s.
30 288.104 or this section.

31

1 (k)~~(j)~~ "Local financial support" means funding from
2 local sources, public or private, which is paid to the
3 Economic Development Trust Fund and which is equal to 20
4 percent of the annual tax refund for a qualified target
5 industry business. A qualified target industry business may
6 not provide, directly or indirectly, more than 5 percent of
7 such funding in any fiscal year. The sources of such funding
8 may not include, directly or indirectly, state funds
9 appropriated from the General Revenue Fund or any state trust
10 fund, excluding tax revenues shared with local governments
11 pursuant to law.

12 (l)~~(k)~~ "Local financial support exemption option"
13 means the option to exercise an exemption from the local
14 financial support requirement available to any applicant whose
15 project is located in a county with a population of 75,000 or
16 less, or in a county with a population of 100,000 or less
17 which is contiguous to a county with a population of 75,000 or
18 less designated by the Rural Economic Development Initiative.
19 Any applicant that exercises this option shall not be eligible
20 for more than 80 percent of the total tax refunds allowed such
21 applicant under this section.

22 (m)~~(l)~~ "New business" means a business which
23 heretofore did not exist in this state, first beginning
24 operations on a site located in this state and clearly
25 separate from any other commercial or industrial operations
26 owned by the same business.

27 (n)~~(m)~~ "Project" means the creation of a new business
28 or expansion of an existing business.

29 (o)~~(n)~~ "Director" means the Director of the Office of
30 Tourism, Trade, and Economic Development.

31

1 (p)~~(e)~~ "Target industry business" means a corporate
2 headquarters business or any business that is engaged in one
3 of the target industries identified pursuant to the following
4 criteria developed by the office in consultation with
5 Enterprise Florida, Inc.:

6 1. Future growth.--Industry forecasts should indicate
7 strong expectation for future growth in both employment and
8 output, according to the most recent available data. Special
9 consideration should be given to Florida's growing access to
10 international markets or to replacing imports.

11 2. Stability.--The industry should not be subject to
12 periodic layoffs, whether due to seasonality or sensitivity to
13 volatile economic variables such as weather. The industry
14 should also be relatively resistant to recession, so that the
15 demand for products of this industry is not necessarily
16 subject to decline during an economic downturn.

17 3. High wage.--The industry should pay relatively high
18 wages compared to statewide or area averages.

19 4. Market and resource independent.--The location of
20 industry businesses should not be dependent on Florida markets
21 or resources as indicated by industry analysis.

22 5. Industrial base diversification and
23 strengthening.--The industry should contribute toward
24 expanding or diversifying the state's or area's economic base,
25 as indicated by analysis of employment and output shares
26 compared to national and regional trends. Special
27 consideration should be given to industries that strengthen
28 regional economies by adding value to basic products or
29 building regional industrial clusters as indicated by industry
30 analysis.
31

1 6. Economic benefits.--The industry should have strong
2 positive impacts on or benefits to the state and regional
3 economies.

4
5 The office, in consultation with Enterprise Florida, Inc.,
6 shall develop a list of such target industries annually and
7 submit such list as part of the final agency legislative
8 budget request submitted pursuant to s. 216.023(1). A target
9 industry business may not include any industry engaged in
10 retail activities; any electrical utility company; any
11 phosphate or other solid minerals severance, mining, or
12 processing operation; any oil or gas exploration or production
13 operation; or any firm subject to regulation by the Division
14 of Hotels and Restaurants of the Department of Business and
15 Professional Regulation.

16 ~~(q)~~(p) "Taxable year" means taxable year as defined in
17 s. 220.03(1)(z).

18 ~~(r)~~(q) "Qualified target industry business" means a
19 target industry business that has been approved by the
20 director to be eligible for tax refunds pursuant to this
21 section.

22 ~~(s)~~(r) "Rural county" means a county with a population
23 of 75,000 or less, or a county with a population of 100,000 or
24 less which is contiguous to a county with a population of
25 75,000 or less.

26 ~~(t)~~(s) "Rural city" means a city with a population of
27 10,000 or less, or a city with a population of greater than
28 10,000 but less than 20,000 which has been determined by the
29 Office of Tourism, Trade, and Economic Development to have
30 economic characteristics such as, but not limited to, a
31 significant percentage of residents on public assistance, a

1 significant percentage of residents with income below the
2 poverty level, or a significant percentage of the city's
3 employment base in agriculture-related industries.

4 (3) TAX REFUND; ELIGIBLE AMOUNTS.--

5 (a) There shall be allowed, from the account, a refund
6 to a qualified target industry business for the amount of
7 eligible taxes certified by the director which were paid by
8 such business. The total amount of refunds for all fiscal
9 years for each qualified target industry business must be
10 determined pursuant to subsection (4). The annual amount of a
11 refund to a qualified target industry business must be
12 determined pursuant to subsection (6).

13 (b) Upon approval by the director, a qualified target
14 industry business shall be allowed tax refund payments equal
15 to \$3,000 times the number of jobs specified in the tax refund
16 agreement under subparagraph (5)(a)1., or equal to \$6,000
17 times the number of jobs if the project is located in a rural
18 county or city or an enterprise zone. Further, a qualified
19 target industry business shall be allowed additional tax
20 refund payments equal to \$1,000 times the number of jobs
21 specified in the tax refund agreement under subparagraph
22 (5)(a)1. if such jobs pay an annual average wage of at least
23 150 percent of the average private sector wage in the area, or
24 equal to \$2,000 times the number of jobs if such jobs pay an
25 annual average wage of at least 200 percent of the average
26 private sector wage in the area.~~The director may approve a~~
27 ~~qualified target industry business to receive tax refund~~
28 ~~payments of up to \$5,000 times the number of jobs specified in~~
29 ~~the tax refund agreement under subparagraph (5)(a)1., or up to~~
30 ~~\$7,500 times the number of jobs if the project is located in~~
31 ~~an enterprise zone.~~A qualified target industry business may

1 not receive refund payments of more than 25 percent of the
2 total tax refunds specified in the tax refund agreement under
3 subparagraph (5)(a)1. in any fiscal year. Further, a qualified
4 target industry business may not receive more than \$1.5
5 million in refunds under this section in any single fiscal
6 year, or more than ~~\$3~~\$2.5 million in any single fiscal year
7 if the project is located in an enterprise zone, rural county,
8 or rural city. A qualified target industry may not receive
9 more than \$5 million in refund payments under this section in
10 all fiscal years, or more than ~~\$10~~\$7.5 million if the project
11 is located in an enterprise zone, rural county, or rural city.
12 Funds made available pursuant to this section may not be
13 expended in connection with the relocation of a business from
14 one community to another community in this state unless the
15 Office of Tourism, Trade, and Economic Development determines
16 that without such relocation the business will move outside
17 this state or determines that the business has a compelling
18 economic rationale for the relocation and that the relocation
19 will create additional jobs.

20 (c) After entering into a tax refund agreement under
21 subsection (5), a qualified target industry business may
22 receive refunds from the account for the following taxes due
23 and paid by that business beginning with the first taxable
24 year of the business which begins after entering into the
25 agreement:

- 26 1. Taxes on sales, use, and other transactions under
27 chapter 212.
- 28 2. Corporate income taxes under chapter 220.
- 29 3. Intangible personal property taxes under chapter
30 199.
- 31 4. Emergency excise taxes under chapter 221.

- 1 5. Excise taxes on documents under chapter 201.
- 2 6. Ad valorem taxes paid, as defined in s. 220.03(1).
- 3 7. Insurance premium tax under s. 624.509.

4
5 However, a qualified target industry business may not receive
6 a refund under this section for any amount of credit, refund,
7 or exemption granted to that business for any of such taxes.
8 If a refund for such taxes is provided by the office, which
9 taxes are subsequently adjusted by the application of any
10 credit, refund, or exemption granted to the qualified target
11 industry business other than as provided in this section, the
12 business shall reimburse the account for the amount of that
13 credit, refund, or exemption. A qualified target industry
14 business shall notify and tender payment to the office within
15 20 days after receiving any credit, refund, or exemption other
16 than one provided in this section.

17 (d) A qualified target industry business that
18 fraudulently claims a refund under this section:

19 1. Is liable for repayment of the amount of the refund
20 to the account, plus a mandatory penalty in the amount of 200
21 percent of the tax refund which shall be deposited into the
22 General Revenue Fund.

23 2. Is guilty of a felony of the third degree,
24 punishable as provided in s. 775.082, s. 775.083, or s.
25 775.084.

26 (4) APPLICATION AND APPROVAL PROCESS.--

27 (a) To apply for certification as a qualified target
28 industry business under this section, the business must file
29 an application with the office before the business has made
30 the decision to locate a new business in this state or before
31 the business had made the decision to expand an existing

1 business in this state. The application shall include, but is
2 not limited to, the following information:

3 1. The applicant's federal employer identification
4 number and the applicant's state sales tax registration
5 number.

6 2. The permanent location of the applicant's facility
7 in this state at which the project is or is to be located.

8 3. A description of the type of business activity or
9 product covered by the project, including four-digit SIC codes
10 for all activities included in the project.

11 4. The number of full-time equivalent jobs in this
12 state that are or will be dedicated to the project and the
13 average wage of those jobs. If more than one type of business
14 activity or product is included in the project, the number of
15 jobs and average wage for those jobs must be separately stated
16 for each type of business activity or product.

17 5. The total number of full-time equivalent employees
18 employed by the applicant in this state.

19 6. The anticipated commencement date of the project.

20 7. The amount of:

21 a. Taxes on sales, use, and other transactions paid
22 under chapter 212;

23 b. Corporate income taxes paid under chapter 220;

24 c. Intangible personal property taxes paid under
25 chapter 199;

26 d. Emergency excise taxes paid under chapter 221; and
27 e. Excise taxes on documents paid under chapter 201.

28 8. The estimated amount of tax refunds to be claimed
29 in each fiscal year.

30
31

1 9. A brief statement concerning the role that the tax
2 refunds requested will play in the decision of the applicant
3 to locate or expand in this state.

4 10. An estimate of the proportion of the sales
5 resulting from the project that will be made outside this
6 state.

7 11. A resolution adopted by the governing board of the
8 county or municipality in which the project will be located,
9 which resolution recommends that certain types of businesses
10 be approved as a qualified target industry business and states
11 that the commitments of local financial support necessary for
12 the target industry business exist. In advance of the passage
13 of such resolution, the office may also accept an official
14 letter from an authorized local economic development agency
15 which endorses the proposed target industry project and
16 pledges that sources of local financial support for such
17 project exist. For the purpose of making pledges of local
18 financial support under this subsection, the authorized local
19 economic development agency shall be officially designated by
20 the passage of a resolution by the local governing authority.
21 ~~Before adoption of the resolution, the governing board may~~
22 ~~review the proposed public or private sources of such support~~
23 ~~and determine whether the proposed sources of local financial~~
24 ~~support can be provided.~~

25 12. Any additional information requested by the
26 office.

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

30 1. The jobs proposed to be provided under the
31 application, pursuant to subparagraph (a)4., must pay an

1 estimated annual average wage equaling at least 115 percent of
2 the average private sector wage in the area where the business
3 is to be located or the statewide private sector average wage.
4 The office may waive this average wage requirement at the
5 request of the local governing body recommending the project
6 and Enterprise Florida, Inc. The wage requirement may only be
7 waived for a project located in a brownfield area designated
8 under s. 376.80 or in a rural city or county or in an
9 enterprise zone and only when the merits of the individual
10 project or the specific circumstances in the community in
11 relationship to the project warrant such action. If the local
12 governing body and Enterprise Florida, Inc., make such a
13 recommendation, it must be transmitted in writing and the
14 specific justification for the waiver recommendation must be
15 explained. If the director elects to waive the wage
16 requirement, the waiver must be stated in writing and the
17 reasons for granting the waiver must be explained.

18 2. The target industry business's project must result
19 in the creation of at least 10 jobs at such project and, if an
20 expansion of an existing business, must result in a net
21 increase in employment of not less than 10 percent at such
22 business. However, at the request of the local governing body
23 recommending the project and Enterprise Florida, Inc., the
24 office may approve an expansion of an existing business under
25 this section in a rural city, a rural county, or an enterprise
26 zone that results in a net increase in employment of less than
27 10 percent at the business if the merits of the individual
28 project or the specific circumstances in the community in
29 relation to the project warrant this action. If the local
30 governing body and Enterprise Florida, Inc., make such a
31 request, it must be transmitted in writing and the specific

1 justification for the request must be explained. If the
2 director elects to accept such request, this decision must be
3 stated in writing and the reasons for granting the request
4 must be explained.

5 3. The business activity or product for the
6 applicant's project is within an industry or industries that
7 have been identified by the office to be high-value-added
8 industries that contribute to the area and to the economic
9 growth of the state and that produce a higher standard of
10 living for citizens of this state in the new global economy or
11 that can be shown to make an equivalent contribution to the
12 area and state's economic progress. The director must approve
13 requests to waive the wage requirement for brownfield areas
14 designated under s. 376.80 unless it is demonstrated that such
15 action is not in the public interest.

16 (c) Each application meeting the requirements of
17 paragraph (b) must be submitted to the office for
18 determination of eligibility. The office shall review and
19 evaluate each application based on, but not limited to, the
20 following criteria:

21 1. Expected contributions to the state strategic
22 economic development plan adopted by Enterprise Florida, Inc.,
23 taking into account the long-term effects of the project and
24 of the applicant on the state economy.

25 2. The economic benefit of the jobs created by the
26 project in this state, taking into account the cost and
27 average wage of each job created.

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

30 4. The local commitment and support for the project.
31

1 5. The effect of the project on the local community,
2 taking into account the unemployment rate for the county where
3 the project will be located.

4 6. The effect of any tax refunds granted pursuant to
5 this section on the viability of the project and the
6 probability that the project will be undertaken in this state
7 if such tax refunds are granted to the applicant, taking into
8 account the expected long-term commitment of the applicant to
9 economic growth and employment in this state.

10 7. The expected long-term commitment to this state
11 resulting from the project.

12 8. A review of the business's past activities in this
13 state or other states, including whether such business has
14 been subjected to criminal or civil fines and penalties.
15 Nothing in this subparagraph shall require the disclosure of
16 confidential information.

17 (d) The office shall forward its written findings and
18 evaluation concerning each application meeting the
19 requirements of paragraph (b) to the director within 45
20 calendar days after receipt of a complete application. The
21 office shall notify each target industry business when its
22 application is complete, and of the time when the 45-day
23 period begins. In its written report to the director, the
24 office shall specifically address each of the factors
25 specified in paragraph (c) and shall make a specific
26 assessment with respect to the minimum requirements
27 established in paragraph (b). The office shall include in its
28 report projections of the tax refund claim that will be sought
29 by the target industry business in each fiscal year based on
30 the information submitted in the application.

31

1 (e)1. Within 30 days after receipt of the office's
2 findings and evaluation, the director shall issue a letter of
3 certification ~~enter a final order~~ that either approves or
4 disapproves the application of the target industry business.
5 The decision must be in writing and must provide the
6 justifications for approval or disapproval.

7 2. If appropriate, the director shall enter into a
8 written agreement with the qualified target industry business
9 pursuant to subsection (5).

10 (f) The director may not certify ~~enter a final order~~
11 ~~that certifies~~ any target industry business as a qualified
12 target industry business if the value of tax refunds to be
13 included in that letter of certification ~~final order~~ exceeds
14 the available amount of authority to certify new businesses
15 ~~enter final orders~~ as determined in s. 288.095(3). In the
16 event the commitments of local financial support represent
17 less than 20 percent of the eligible tax refund payments, or
18 to otherwise preserve the viability and fiscal integrity of
19 the program, the director may certify a qualified target
20 industry business to receive tax refund payments of less than
21 the allowable amounts specified in paragraph (3)(b).A letter
22 of certification ~~final order~~ that approves an application must
23 specify the maximum amount of tax refund that will be
24 available to the qualified industry business in each fiscal
25 year and the total amount of tax refunds that will be
26 available to the business for all fiscal years.

27 (g) Nothing in this section shall create a presumption
28 that an applicant will receive any tax refunds under this
29 section. However, the office may issue nonbinding opinion
30 letters, upon the request of prospective applicants, as to the
31 applicants' eligibility and the potential amount of refunds.

- 1 (5) TAX REFUND AGREEMENT.--
- 2 (a) Each qualified target industry business must enter
3 into a written agreement with the office which specifies, at a
4 minimum:
- 5 1. The total number of full-time equivalent jobs in
6 this state that will be dedicated to the project, the average
7 wage of those jobs, the definitions that will apply for
8 measuring the achievement of these terms during the pendency
9 of the agreement, and a time schedule or plan for when such
10 jobs will be in place and active in this state. This
11 information must be the same as the information contained in
12 the application submitted by the business under subsection
13 (4).
- 14 2. The maximum amount of tax refunds which the
15 qualified target industry business is eligible to receive on
16 the project and the maximum amount of a tax refund that the
17 qualified target industry business is eligible to receive in
18 each fiscal year.
- 19 3. That the office may review and verify the financial
20 and personnel records of the qualified target industry
21 business to ascertain whether that business is in compliance
22 with this section.
- 23 4. The date after which, in each fiscal year, the
24 qualified target industry business may file an annual claim
25 under subsection (6).
- 26 5. That local financial support will be annually
27 available and will be paid to the account. The director may
28 not enter into a written agreement with a qualified target
29 industry business if a local financial support resolution is
30 not passed by the local governing authority within 90 days
31

1 after issuance of the letter of certification pursuant to
2 subsection (4).

3 (b) Compliance with the terms and conditions of the
4 agreement is a condition precedent for the receipt of a tax
5 refund each year. The failure to comply with the terms and
6 conditions of the tax refund agreement results in the loss of
7 eligibility for receipt of all tax refunds previously
8 authorized under this section and the revocation by the
9 director of the certification of the business entity as a
10 qualified target industry business.

11 (c) The agreement must be signed by the director and
12 by an authorized officer of the qualified target industry
13 business within 120 ~~30~~ days after the issuance of the letter
14 of certification ~~entry of a final order certifying the~~
15 ~~business entity as a qualified target industry business~~ under
16 subsection (4).

17 (d) The agreement must contain the following legend,
18 clearly printed on its face in bold type of not less than 10
19 points in size: "This agreement is neither a general
20 obligation of the State of Florida, nor is it backed by the
21 full faith and credit of the State of Florida. Payment of tax
22 refunds are conditioned on and subject to specific annual
23 appropriations by the Florida Legislature of moneys sufficient
24 to pay amounts authorized in section 288.106, Florida
25 Statutes."

26 (6) ANNUAL CLAIM FOR REFUND.--

27 (a) A qualified target industry business that has
28 entered into a tax refund agreement with the office under
29 subsection (5) may apply once each fiscal year to the office
30 for a tax refund. The application must be made on or after the
31 date specified in that agreement.

1 (b) The claim for refund by the qualified target
2 industry business must include a copy of all receipts
3 pertaining to the payment of taxes for which the refund is
4 sought and data related to achievement of each performance
5 item specified in the tax refund agreement. The amount
6 requested as a tax refund may not exceed the amount specified
7 for that fiscal year in that agreement.

8 (c) A tax refund may not be approved for a qualified
9 target industry business unless the required local financial
10 support has been paid into the account in that fiscal year. If
11 the local financial support provided is less than 20 percent
12 of the approved tax refund, the tax refund must be reduced. In
13 no event may the tax refund exceed an amount that is equal to
14 5 times the amount of the local financial support received.
15 Further, funding from local sources includes any tax abatement
16 granted to that business under s. 196.1995, or the appraised
17 market value of municipal or county land conveyed or provided
18 at a discount to that business by any county, municipality, or
19 other public entity. ~~and~~ The amount of any tax refund for
20 such business approved under this section must be reduced by
21 the amount of any such tax abatement granted or the value of
22 the land granted; and the limitations in subsection (3) and
23 paragraph (4)(f) must be reduced by the amount of any such tax
24 abatement or the value of the land granted. A report listing
25 all sources of the local financial support shall be provided
26 to the office when such support is paid to the account.

27 (d) A prorated tax refund, less a 5-percent penalty,
28 shall be approved for a qualified target industry business
29 provided all other applicable requirements have been satisfied
30 and the business proves to the satisfaction of the director
31

1 that it has achieved at least 80 percent of its projected
2 employment.

3 (e) The director, with such assistance as may be
4 required from the office, the Department of Revenue, or the
5 Department of Labor and Employment Security, shall specify by
6 written final order the amount of the tax refund that is
7 authorized for the qualified target industry business for the
8 fiscal year within 30 days after the date that the claim for
9 the annual tax refund is received by the office.

10 (f) The total amount of tax refund claims ~~refunds~~
11 approved by the director under this section in any fiscal year
12 must not exceed the amount authorized under s. 288.095(3).

13 (g) Upon approval of the tax refund under paragraphs
14 (c), (d), and (e), the Comptroller shall issue a warrant for
15 the amount specified in the final order. If the final order is
16 appealed, the Comptroller may not issue a warrant for a refund
17 to the qualified target industry business until the conclusion
18 of all appeals of that order.

19 (7) ADMINISTRATION.--

20 (a) The office is authorized to verify information
21 provided in any claim submitted for tax credits under this
22 section with regard to employment and wage levels or the
23 payment of the taxes to the appropriate agency or authority,
24 including the Department of Revenue, the Department of Labor
25 and Employment Security, or any local government or authority.

26 (b) To facilitate the process of monitoring and
27 auditing applications made under this program, the office may
28 provide a list of qualified target industry businesses to the
29 Department of Revenue, to the Department of Labor and
30 Employment Security, or to any local government or authority.
31 The office may request the assistance of those entities with

1 respect to monitoring the payment of the taxes listed in
2 subsection (3).

3 (c) The office may contract with Enterprise Florida,
4 Inc., for the administration of the program, or portions of
5 the program, excluding the approval of applications for
6 certification, the issuance of letters of certification, and
7 the final authorization for the payment of tax refund claims.

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

9 Section 5. Paragraph (e) of subsection (1) of section
10 288.107, Florida Statutes, 1998 Supplement, is amended to
11 read:

12 288.107 Brownfield redevelopment bonus refunds.--

13 (1) DEFINITIONS.--As used in this section:

14 (e) "Eligible business" means a qualified target
15 industry business as defined in s. 288.106(2)~~(e)~~.

16 Section 6. (1) There is created the Institute on
17 Urban Policy and Commerce as a Type I Institute under the
18 Board of Regents at Florida Agricultural and Mechanical
19 University to improve the quality of life in urban communities
20 through research, teaching, and outreach activities.

21 (2) The major purposes of the institute are to pursue
22 basic and applied research on urban policy issues confronting
23 the inner-city areas and neighborhoods in the state; to
24 influence the equitable allocation and stewardship of federal,
25 state, and local financial resources; to train a new
26 generation of civic leaders and university students interested
27 in approaches to community planning and design; to assist with
28 the planning, development, and capacity building of urban area
29 nonprofit organizations and government agencies; to develop
30 and maintain a database relating to inner-city areas; and to
31

1 support the community development efforts of inner-city areas,
2 neighborhood-based organizations, and municipal agencies.

3 (3) The institute shall research and recommend
4 strategies concerning critical issues facing the underserved
5 population in urban communities, including, but not limited
6 to, transportation and physical infrastructure; affordable
7 housing; tourism and commerce; environmental restoration; job
8 development and retention; child care; public health;
9 life-long learning; family intervention; public safety; and
10 community relations.

11 (4) The institute shall establish regional urban
12 centers to be located in the inner cities of St. Petersburg,
13 Tampa, Jacksonville, Orlando, West Palm Beach, Fort
14 Lauderdale, Miami, Daytona Beach, and Pensacola to assist
15 urban communities on critical economic, social, and
16 educational problems affecting the underserved population.

17 (5) Before January 1 of each year, the institute shall
18 submit a report of its critical findings and recommendations
19 for the prior year to the President of the Senate, the Speaker
20 of the House of Representatives, and the appropriate
21 committees of the Legislature. The report shall be titled "The
22 State of Unmet Needs in Florida's Urban Communities" and shall
23 include, but is not limited to, a recommended list of
24 resources that could be made available for revitalizing urban
25 communities; significant accomplishments and activities of the
26 institute; and recommendations concerning the expansion,
27 improvement, or termination of the institute.

28 (6) The Governor shall submit an annual report to the
29 Legislature on the unmet needs in the state's urban
30 communities.

31

1 Section 7. Florida Economic Opportunities Incentive
2 Fund.--

3 (1)(a) The Legislature finds that attracting,
4 retaining, and providing favorable conditions for the growth
5 of certain high-impact business facilities provides widespread
6 economic benefits to the public through high-quality
7 employment opportunities in such facilities and in related
8 facilities attracted to the state, through the increased tax
9 base provided by the high-impact facility and businesses in
10 related sectors, through an enhanced entrepreneurial climate
11 in the state and the resulting business and employment
12 opportunities, and through the stimulation and enhancement of
13 the state's universities and community colleges. In the global
14 economy, there exists serious and fierce international
15 competition for these facilities, and in most instances, when
16 all available resources for economic development have been
17 used, the state continues to encounter severe competitive
18 disadvantages in vying for these high-impact business
19 facilities.

20 (b) The Legislature therefore declares that sufficient
21 resources shall be available to respond to extraordinary
22 economic opportunities and to compete effectively for these
23 high-impact business facilities.

24 (2)(a) There is created within the Office of Tourism,
25 Trade, and Economic Development the Florida Economic
26 Opportunities Incentive Fund.

27 (b) Upon the approval of the Governor, moneys may be
28 transferred to the Florida Economic Opportunities Incentive
29 Fund from the Working Capital Fund or other unappropriated
30 surplus funds, not to exceed \$50 million in any one fiscal
31 year.

1 (3)(a) Enterprise Florida, Inc., shall evaluate
2 individual proposals for high-impact business facilities and
3 forward recommendations regarding the use of moneys in the
4 fund for such facilities to the director of the Office of
5 Tourism, Trade, and Economic Development. Such evaluation and
6 recommendation must include, but need not be limited to:

7 1. A description of the type of facility, its business
8 operation, and the product or service associated with the
9 facility.

10 2. The number of full-time-equivalent jobs that will
11 be created by the facility and the total estimated average
12 annual wages of those jobs.

13 3. The cumulative amount of investment to be dedicated
14 to the facility within a specified period.

15 4. A statement of any special impacts the facility is
16 expected to stimulate in a particular business sector in the
17 state or regional economy or in the state's universities and
18 community colleges.

19 5. A statement of the role the incentive is expected
20 to play in the decision of the applicant business to locate or
21 expand in this state.

22 (b) Upon receipt of the evaluation and recommendation
23 from Enterprise Florida, Inc., the director shall recommend
24 approval or disapproval of a project for receipt of funds from
25 the Florida Economic Opportunities Incentive Fund to the
26 Governor. In recommending a high-impact business facility, the
27 director shall include proposed performance conditions that
28 the facility must meet to obtain incentive funds. The Governor
29 shall consult with the President of the Senate and the Speaker
30 of the House of Representatives before giving final approval
31 for a project.

1 (c) Upon the approval of the Governor, the director of
2 the Office of Tourism, Trade, and Economic Development and the
3 high-impact business shall enter into a contract that sets
4 forth the conditions for payment of moneys from the fund. The
5 contract must include the total amount of funds awarded; the
6 performance conditions that must be met to obtain the award,
7 including, but not limited to, net new employment in the
8 state, average salary, and total capital investment; the
9 methodology for validating performance; and the schedule of
10 payments from the fund.

11 Section 8. Response to economic emergencies in small
12 communities.--

13 (1) The Legislature finds that attracting, retaining,
14 and providing favorable conditions for businesses which
15 contribute to the economic health of small communities through
16 the generation of business and employment opportunities is in
17 the public interest. The Legislature recognizes that
18 conditions may exist where criteria for existing economic
19 development programs prevent some businesses from
20 participating and that existing criteria should be waived in
21 order to allow businesses which are significant employers in
22 these small communities to participate in these programs in
23 order to improve the economic health of these communities.
24 The Legislature further recognizes that the loss of an
25 industry or the inability of a significant employer to open or
26 reopen a business in a small community creates a state of
27 economic emergency within that community.

28 (2) A community is in a state of economic emergency
29 when any of the following conditions occur:

30 (a) Closure of a business which is a significant
31 employer of workers in the community.

1 (b) Closure of a business which significantly affects
2 the operations of other businesses which are significant
3 employers of workers in the community.

4 (c) A business which would be a significant employer
5 of workers in the community is unable to open or reopen due to
6 a lack of economic incentives or a business environment which
7 is not favorable to the opening or reopening of that business.

8 (d) The community experiences substantial unemployment
9 due to the closure of a major industry.

10 (3) A local government entity shall notify the
11 Governor, the Office of Tourism, Trade, and Economic
12 Development, and Enterprise Florida, Inc., when one or more of
13 the conditions specified in subsection (2) have occurred or
14 will occur if action is not taken to assist the local
15 governmental entity or the affected community.

16 (4) Upon notification that one or more of the
17 conditions described in subsection (2) exist, the Governor or
18 his or her designee shall contact the local governmental
19 entity to determine what actions have been taken by the local
20 governmental entity or the affected community to resolve the
21 economic emergency. The Governor has the authority to waive
22 the eligibility criteria of any program or activity
23 administered by the Office of Tourism, Trade, and Economic
24 Development, or Enterprise Florida, Inc., to provide economic
25 relief to the affected community by granting participation in
26 such programs or activities. The Governor shall consult with
27 the President of the Senate and the Speaker of the House of
28 Representatives and shall take other action, as necessary, to
29 resolve the economic emergency in the most expedient manner
30 possible.

31

1 Section 9. Except as otherwise provided herein, this
2 act shall take effect October 1, 1999.
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