

By Senator Diaz de la Portilla

34-1621A-02

1 A bill to be entitled
2 An act relating to economic stimulus; amending
3 s. 220.191, F.S.; establishing, for a temporary
4 period, eligibility conditions for a new type
5 of qualifying project under the capital
6 investment tax credit program; providing
7 deadlines for certification of businesses and
8 commencement of project construction under such
9 program; revising requirements relating to
10 minimum capital investment; prescribing tax
11 credit limitations; amending s. 288.095, F.S.;
12 revising terminology relating to certain
13 incentive payment schedules; revising the due
14 date and content for an annual report on
15 incentives and reassigning responsibility for
16 such report to Enterprise Florida, Inc.;
17 amending s. 288.1045, F.S.; expanding the tax
18 refund program for qualified defense
19 contractors to include qualified
20 aviation-industry businesses; revising
21 definitions; defining "aviation-industry
22 business"; providing that qualified
23 aviation-industry businesses may seek refunds
24 for aviation fuel taxes paid; revising and
25 conforming procedures for applying for
26 certification under the tax refund program;
27 prescribing information required in
28 applications by aviation-industry businesses;
29 prescribing criteria to be used by the Office
30 of Tourism, Trade, and Economic Development in
31 reviewing applications by aviation-industry

1 businesses; revising the required elements of a
2 tax refund agreement; providing an exemption
3 from mandatory loss of tax refund eligibility
4 and decertification resulting from agreement
5 breach in cases of uncontrollable economic
6 factors; prescribing a deadline for applying
7 for tax refunds; revising conditions and
8 procedures governing applications for tax
9 refunds; revising provisions relating to the
10 order authorizing a tax refund; authorizing the
11 office to grant extensions to certain
12 application and notification deadlines;
13 revising conditions under which a prorated tax
14 refund will be approved; providing for
15 calculation of such prorated refund; specifying
16 that the section does not create a presumption
17 a claim will be approved and paid; revising the
18 agencies with which the office may verify
19 information and to which the office may provide
20 information; expanding purposes for which the
21 office may seek assistance from certain
22 entities; specifying that certain
23 appropriations may not be used for any purpose
24 other than the payment of specified tax
25 refunds; amending s. 288.106, F.S., relating to
26 the tax refund program for qualified target
27 industry businesses; consolidating definitions;
28 revising requirements for application for
29 certification as such business with respect to
30 the number of current and new jobs at the
31 business and projections by the Office of

1 Tourism, Trade, and Economic Development of
2 refunds based thereon; revising requirements
3 relating to the tax refund agreement with
4 respect to job creation and the time for filing
5 of claims for refund; providing for an
6 exemption from mandatory loss of tax refund
7 eligibility and decertification resulting from
8 agreement breach in cases of uncontrollable
9 economic factors; revising provisions relating
10 to annual claims for refund; authorizing an
11 extension of time for signing the tax refund
12 agreement; providing an application deadline;
13 revising provisions relating to the order
14 authorizing a tax refund; revising conditions
15 under which a prorated tax refund will be
16 approved; providing for calculation of such
17 prorated tax refund; specifying that the
18 section does not create a presumption that a
19 claim will be approved and paid; revising the
20 agencies with which the office may verify
21 information and to which the office may provide
22 information; expanding purposes for which the
23 office may seek assistance from certain
24 entities; specifying that certain
25 appropriations may not be used for any purpose
26 other than the payment of specified tax
27 refunds; amending s. 14.2015, F.S.; revising
28 duties of the Office of Tourism, Trade, and
29 Economic Development with respect to tax-refund
30 programs; conforming provisions to changes made
31 by the act; amending s. 213.053, F.S.;

1 authorizing the Department of Revenue to share
2 certain information concerning specified
3 tax-refund programs with the Office of Tourism,
4 Trade, and Economic Development; providing
5 legislative findings relating to the impact of
6 economic downturns on small businesses;
7 directing Enterprise Florida, Inc., to provide
8 for the establishment of a Small Business
9 Crisis Management Team; prescribing the
10 membership and purposes of such team; requiring
11 participation of designated agencies or
12 organizations; defining the term "small
13 business"; providing an effective date.
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15 Be It Enacted by the Legislature of the State of Florida:
16

17 Section 1. Section 220.191, Florida Statutes, is
18 amended to read:

19 220.191 Capital investment tax credit.--

20 (1) DEFINITIONS.--For purposes of this section:

21 (a) "Commencement of operations" means the beginning
22 of active operations by a qualifying business or qualifying
23 economic stimulus business of the principal function for which
24 a qualifying project was constructed.

25 (b) "Cumulative capital investment" means the total
26 capital investment in land, buildings, and equipment made in
27 connection with a qualifying project or qualifying economic
28 stimulus project during the period from the beginning of
29 construction of the project to the commencement of operations.

30 (c) "Eligible capital costs" means all expenses
31 incurred by a qualifying business or qualifying economic

1 stimulus business in connection with the acquisition,
2 construction, installation, and equipping of a qualifying
3 project or qualifying economic stimulus project during the
4 period from the beginning of construction of the project to
5 the commencement of operations, including, but not limited to:
6 1. The costs of acquiring, constructing, installing,
7 equipping, and financing a qualifying project or qualifying
8 economic stimulus project, including all obligations incurred
9 for labor and obligations to contractors, subcontractors,
10 builders, and materialmen.
11 2. The costs of acquiring land or rights to land and
12 any cost incidental thereto, including recording fees.
13 3. The costs of architectural and engineering
14 services, including test borings, surveys, estimates, plans
15 and specifications, preliminary investigations, environmental
16 mitigation, and supervision of construction, as well as the
17 performance of all duties required by or consequent to the
18 acquisition, construction, installation, and equipping of a
19 qualifying project or qualifying economic stimulus project.
20 4. The costs associated with the installation of
21 fixtures and equipment; surveys, including archaeological and
22 environmental surveys; site tests and inspections; subsurface
23 site work and excavation; removal of structures, roadways, and
24 other surface obstructions; filling, grading, paving, and
25 provisions for drainage, storm water retention, and
26 installation of utilities, including water, sewer, sewage
27 treatment, gas, electricity, communications, and similar
28 facilities; and offsite construction of utility extensions to
29 the boundaries of the property.
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1 Eligible capital costs shall not include the cost of any
2 property previously owned or leased by the qualifying business
3 or qualifying economic stimulus business.

4 (d) "Income generated by or arising out of the
5 qualifying project or qualifying economic stimulus project"
6 means the qualifying project's or qualifying economic stimulus
7 project's annual taxable income as determined by generally
8 accepted accounting principles and under s. 220.13.

9 (e) "Jobs" means full-time equivalent positions, as
10 such term is consistent with terms used by the Agency for
11 Workforce Innovation ~~Department of Labor and Employment~~
12 ~~Security~~ and the United States Department of Labor for
13 purposes of unemployment tax administration and employment
14 estimation, resulting directly from a qualifying project or
15 qualifying economic stimulus project in this state. Such term
16 does not include temporary construction jobs involved in the
17 construction of the project facility.

18 (f) "Office" means the Office of Tourism, Trade, and
19 Economic Development.

20 (g) "Qualifying business" means a business which
21 establishes a qualifying project in this state and which is
22 certified by the office to receive tax credits under ~~pursuant~~
23 ~~to~~ this section.

24 (h) "Qualifying project" means a new or expanding
25 facility in this state which creates at least 100 new jobs in
26 this state and is in one of the high-impact sectors identified
27 by Enterprise Florida, Inc., and certified by the office under
28 ~~pursuant to~~ s. 288.108(6), including, but not limited to,
29 aviation, aerospace, automotive, and silicon technology
30 industries.

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1 (i) "Qualifying economic stimulus business" means a
2 business that establishes a qualifying economic stimulus
3 project in this state and that is certified by the office, on
4 or before December 31, 2002, to receive tax credits under this
5 section.

6 (j) "Qualifying economic stimulus project" means a new
7 or expanding facility in this state which creates at least 50
8 new jobs in this state and would be eligible for consideration
9 as a qualified target industry business under s. 288.106.

10 Construction on a qualifying economic stimulus project must
11 begin after January 1, 2002, but on or before July 31, 2003.

12 (2) An annual credit against the tax imposed by this
13 chapter shall be granted to any qualifying business or
14 qualifying economic stimulus business in an amount equal to 5
15 percent of the eligible capital costs generated by a
16 qualifying project or qualifying economic stimulus project,
17 for a period not to exceed 20 years beginning with the
18 commencement of operations of the project. The tax credit
19 shall be granted against only the corporate income tax
20 liability or the premium tax liability generated by or arising
21 out of the qualifying project or qualifying economic stimulus
22 project, and the sum of all tax credits provided under
23 ~~pursuant to~~ this section shall not exceed 100 percent of the
24 eligible capital costs of the project. In no event may any
25 credit granted under this section be carried forward or
26 backward by any qualifying business or qualifying economic
27 stimulus business with respect to a subsequent or prior year.

28 (a) The annual tax credit granted under this section
29 shall not exceed the following percentages of the annual
30 corporate income tax liability or the premium tax liability
31 generated by or arising out of a qualifying project:

1 ~~1.(a)~~ One hundred percent for a qualifying project
2 which results in a cumulative capital investment of at least
3 \$100 million.

4 ~~2.(b)~~ Seventy-five percent for a qualifying project
5 which results in a cumulative capital investment of at least
6 \$50 million but less than \$100 million.

7 ~~3.(c)~~ Fifty percent for a qualifying project which
8 results in a cumulative capital investment of at least \$25
9 million but less than \$50 million.

10 4. Forty percent for a qualifying project on which
11 construction has begun after January 1, 2002, but on or before
12 July 31, 2003, and which results in a cumulative capital
13 investment of at least \$15 million but less than \$25 million.

14 (b) The annual tax credit granted under this section
15 shall not exceed the following percentages of the annual
16 corporate income tax liability or the premium tax liability
17 generated by or arising out of a qualifying economic stimulus
18 project:

19 1. Ninety percent if the qualifying economic stimulus
20 project results in a cumulative capital investment of at least
21 \$100 million.

22 2. Sixty-five percent if the qualifying economic
23 stimulus project results in a cumulative capital investment of
24 at least \$50 million but less than \$100 million.

25 3. Forty percent if the qualifying economic stimulus
26 project results in a cumulative capital investment of at least
27 \$25 million but less than \$50 million.

28 4. Thirty percent if the qualifying economic stimulus
29 project results in a cumulative capital investment of at least
30 \$15 million but less than \$25 million.

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1 A qualifying project or qualifying economic stimulus project
2 which results in a cumulative capital investment of less than
3 ~~\$15~~\$25 million is not eligible for the capital investment tax
4 credit. An insurance company claiming a credit against premium
5 tax liability under this program shall not be required to pay
6 any additional retaliatory tax levied under ~~pursuant to~~ s.
7 624.5091 as a result of claiming such credit. Because credits
8 under this section are available to an insurance company, s.
9 624.5091 does not limit such credit in any manner.

10 (3) ~~Before~~ Prior to receiving tax credits under
11 ~~pursuant to~~ this section, a qualifying business or qualifying
12 economic stimulus business must achieve and maintain the
13 minimum employment goals beginning with the commencement of
14 operations at a qualifying project or qualifying economic
15 stimulus project and continuing each year thereafter during
16 which tax credits are available under ~~pursuant to~~ this
17 section.

18 (4) The office, upon a recommendation by Enterprise
19 Florida, Inc., shall first certify a qualifying business or
20 qualifying economic stimulus business as eligible to receive
21 tax credits under ~~pursuant to~~ this section before ~~prior to~~ the
22 commencement of operations of a qualifying project or
23 qualifying economic stimulus project, and such certification
24 shall be transmitted to the Department of Revenue. Upon
25 receipt of the certification, the Department of Revenue shall
26 enter into a written agreement with the qualifying business or
27 qualifying economic stimulus business specifying, at a
28 minimum, the method by which income generated by or arising
29 out of the qualifying project or qualifying economic stimulus
30 project will be determined.

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1 (5) The office, in consultation with Enterprise
2 Florida, Inc., is authorized to develop the necessary
3 guidelines and application materials for the certification
4 process described in subsection (4).

5 (6) It shall be the responsibility of the qualifying
6 business or qualifying economic stimulus business to
7 affirmatively demonstrate to the satisfaction of the
8 Department of Revenue that such business meets the job
9 creation and capital investment requirements of this section.

10 (7) The Department of Revenue may specify by rule the
11 methods by which a qualifying project's or qualifying economic
12 stimulus project's pro forma annual taxable income is
13 determined.

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

16 288.095 Economic Development Trust Fund.--

17 (3)

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

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

6 (c) By December 31 ~~September 30~~ of each year,
7 Enterprise Florida, Inc., the Office of Tourism, Trade, and
8 Economic Development shall submit a complete and detailed
9 report to the Governor, the President of the Senate, the
10 Speaker of the House of Representatives, and the director of
11 the Office of Tourism, Trade, and Economic Development board
12 ~~of directors of Enterprise Florida, Inc., created under part~~
13 ~~VII of this chapter,~~of all applications received,
14 recommendations made to the Office of Tourism, Trade, and
15 Economic Development,final decisions issued, tax refund
16 agreements executed, and tax refunds paid or other payments
17 made under all programs funded out of the Economic Development
18 Incentives Account, including analyses of benefits and costs,
19 types of projects supported, and employment and investment
20 created. Enterprise Florida, Inc., The Office of Tourism,
21 Trade, and Economic Development shall also include a separate
22 analysis of the impact of such tax refunds on state enterprise
23 zones designated pursuant to s. 290.0065, rural communities,
24 brownfield areas, and distressed urban communities. By
25 ~~December 1~~ of each year, ~~the board of directors of Enterprise~~
26 ~~Florida, Inc., shall review and comment on the report, and the~~
27 ~~board shall submit the report, together with the comments of~~
28 ~~the board, to the Governor, the President of the Senate, and~~
29 ~~the Speaker of the House of Representatives.~~The report must
30 discuss whether the authority and moneys appropriated by the
31 Legislature to the Economic Development Incentives Account

1 were managed and expended in a prudent, fiducially sound
2 manner. The Office of Tourism, Trade, and Economic Development
3 shall assist Enterprise Florida, Inc., in the collection of
4 data related to business performance and incentive payments.

5 Section 3. Section 288.1045, Florida Statutes, is
6 amended to read:

7 288.1045 ~~Qualified defense contractor~~ Tax refund
8 program for qualified defense contractors and
9 aviation-industry businesses.--

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

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

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

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

29 (d) "Office" means the Office of Tourism, Trade, and
30 Economic Development.

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

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

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

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

24 (i) "Project" means any business undertaking in this
25 state under a new Department of Defense contract,
26 consolidation of a Department of Defense contract, or
27 conversion of defense production jobs over to nondefense
28 production jobs or reuse of defense-related facilities. The
29 term also means any business undertaking in this state by an
30 aviation-industry business which results in the retention or
31 creation of jobs in this state and which occurs through a new

1 multistate competitive aviation-industry contract;
2 consolidation of multistate operations; conversion of jobs in
3 aviation-industry operations to nonaviation-industry
4 operations; or expansion of aviation-industry operations,
5 which expansion results in an increase of at least 10 percent
6 in the number of jobs in this state at the business unit.

7 (j) "Qualified applicant" means an applicant that has
8 been approved by the director to be eligible for tax refunds
9 pursuant to this section.

10 (k) "Director" means the director of the Office of
11 Tourism, Trade, and Economic Development.

12 (l) "Taxable year" means the same as in s.
13 220.03(1)(z).

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

15 (n) "Business unit" means an employing unit, as
16 defined in s. 443.036, that is registered with the Agency for
17 Workforce Innovation ~~Department of Labor and Employment~~
18 ~~Security~~ for unemployment compensation purposes or means a
19 subcategory or division of an employing unit that is accepted
20 by the Agency for Workforce Innovation ~~Department of Labor and~~
21 ~~Employment Security~~ as a reporting unit.

22 (o) "Local financial support" means funding from local
23 sources, public or private, which is paid to the Economic
24 Development Trust Fund and which is equal to 20 percent of the
25 annual tax refund for a qualified applicant. Local financial
26 support may include excess payments made to a utility company
27 under a designated program to allow decreases in service by
28 the utility company under conditions, regardless of when
29 application is made. A qualified applicant may not provide,
30 directly or indirectly, more than 5 percent of such funding in
31 any fiscal year. The sources of such funding may not include,

1 directly or indirectly, state funds appropriated from the
2 General Revenue Fund or any state trust fund, excluding tax
3 revenues shared with local governments pursuant to law.

4 (p) "Contract for reuse of a defense-related facility"
5 means a contract with a duration of 2 or more years for the
6 use of a facility for manufacturing, assembling, fabricating,
7 research, development, or design of tangible personal
8 property, but excluding any contract to provide goods,
9 improvements to real or tangible property, or services
10 directly to or for any particular military base or
11 installation in this state. Such facility must be located
12 within a port, as defined in s. 313.21, and have been occupied
13 by a business entity that held a valid Department of Defense
14 contract or occupied by any branch of the Armed Forces of the
15 United States, within 1 year of any contract being executed
16 for the reuse of such facility. A contract for reuse of a
17 defense-related facility may not include any contract for
18 reuse of such facility for any Department of Defense contract
19 for manufacturing, assembling, fabricating, research,
20 development, or design.

21 (q) "Local financial support exemption option" means
22 the option to exercise an exemption from the local financial
23 support requirement available to any applicant whose project
24 is located in a county designated by the Rural Economic
25 Development Initiative, if the county commissioners of the
26 county in which the project will be located adopt a resolution
27 requesting that the applicant's project be exempt from the
28 local financial support requirement. Any applicant that
29 exercises this option is not eligible for more than 80 percent
30 of the total tax refunds allowed such applicant under this
31 section.

1 (r) "Aviation-industry business" means a business
2 engaged in activities that support general or commercial
3 aviation, including the construction, repair, or maintenance
4 of aircraft, aircraft power plants, aircraft parts, or
5 aircraft accessories. The term does not include a business
6 engaged in the provision of instruction in flying and related
7 ground subjects.

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

9 (a) There shall be allowed, from the Economic
10 Development Trust Fund, a refund to a qualified applicant for
11 the amount of eligible taxes certified by the director which
12 were paid by such qualified applicant. The total amount of
13 refunds for all fiscal years for each qualified applicant
14 shall be determined pursuant to subsection (3). The annual
15 amount of a refund to a qualified applicant shall be
16 determined pursuant to subsection (5).

17 (b) A qualified applicant may not be qualified for any
18 project to receive more than \$5,000 times the number of jobs
19 provided in the tax refund agreement pursuant to subparagraph
20 (4)(a)1. A qualified applicant may not receive refunds of more
21 than 25 percent of the total tax refunds provided in the tax
22 refund agreement pursuant to subparagraph (4)(a)1. in any
23 fiscal year, provided that no qualified applicant may receive
24 more than \$2.5 million in tax refunds pursuant to this section
25 in any fiscal year.

26 (c) A qualified applicant may not receive more than
27 \$7.5 million in tax refunds pursuant to this section in all
28 fiscal years.

29 (d) Contingent upon an annual appropriation by the
30 Legislature, the director may approve not more in tax refunds
31 than the amount appropriated to the Economic Development Trust

1 Fund for tax refunds, for a fiscal year pursuant to subsection
2 (5) and s. 288.095.

3 (e) For the first 6 months of each fiscal year, the
4 director shall set aside 30 percent of the amount appropriated
5 for refunds pursuant to this section by the Legislature to
6 provide tax refunds only to qualified applicants who employ
7 500 or fewer full-time employees in this state. Any
8 unencumbered funds remaining undisbursed from this set-aside
9 at the end of the 6-month period may be used to provide tax
10 refunds for any qualified applicants pursuant to this section.

11 (f) After entering into a tax refund agreement
12 pursuant to subsection (4), a qualified applicant may receive
13 refunds from the Economic Development Trust Fund for the
14 following taxes due and paid by the qualified applicant
15 beginning with the applicant's first taxable year that begins
16 after entering into the agreement:

17 1. Taxes on sales, use, and other transactions paid
18 pursuant to chapter 212.

19 2. Corporate income taxes paid pursuant to chapter
20 220.

21 3. Intangible personal property taxes paid pursuant to
22 chapter 199.

23 4. Emergency excise taxes paid pursuant to chapter
24 221.

25 5. Excise taxes paid on documents pursuant to chapter
26 201.

27 6. Ad valorem taxes paid, as defined in s.
28 220.03(1)(a) on June 1, 1996.

29 7. Aviation fuel taxes paid pursuant to s. 206.9825 by
30 a qualified aviation-industry business.

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1 However, a qualified applicant may not receive a tax refund
2 pursuant to this section for any amount of credit, refund, or
3 exemption granted such contractor or aviation-industry
4 business for any of such taxes. If a refund for such taxes is
5 provided by the office, which taxes are subsequently adjusted
6 by the application of any credit, refund, or exemption granted
7 to the qualified applicant other than that provided in this
8 section, the qualified applicant shall reimburse the Economic
9 Development Trust Fund for the amount of such credit, refund,
10 or exemption. A qualified applicant must notify and tender
11 payment to the office within 20 days after receiving a credit,
12 refund, or exemption, other than that provided in this
13 section.

14 (g) Any qualified applicant who fraudulently claims
15 this refund is liable for repayment of the refund to the
16 Economic Development Trust Fund plus a mandatory penalty of
17 200 percent of the tax refund which shall be deposited into
18 the General Revenue Fund. Any qualified applicant who
19 fraudulently claims this refund commits a felony of the third
20 degree, punishable as provided in s. 775.082, s. 775.083, or
21 s. 775.084.

22 (h) Funds made available pursuant to this section may
23 not be expended in connection with the relocation of a
24 business from one community to another community in this state
25 unless the Office of Tourism, Trade, and Economic Development
26 determines that without such relocation the business will move
27 outside this state or determines that the business has a
28 compelling economic rationale for the relocation which creates
29 additional jobs.

30 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
31 DETERMINATION.--

1 (a) To apply for certification as a qualified
2 applicant pursuant to this section, an applicant must file an
3 application with the office which satisfies the requirements
4 of paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~
5 paragraphs (d) and (e), or paragraphs (j) and (k). An
6 applicant may not apply for certification pursuant to this
7 section after a proposal has been submitted for a new
8 Department of Defense contract, after the applicant has made
9 the decision to consolidate an existing Department of Defense
10 contract in this state for which such applicant is seeking
11 certification, or after the applicant has made the decision to
12 convert defense production jobs to nondefense production jobs
13 for which such applicant is seeking certification. In the case
14 of an aviation-industry business, an applicant may not apply
15 for certification after the business has submitted a final
16 proposal or bid for a multistate competitive aviation-industry
17 contract, made the decision to consolidate multistate
18 operations in this state, made the decision to convert jobs in
19 aviation-industry operations to nonaviation-industry
20 operations, or made the decision to expand aviation-industry
21 operations in this state.

22 (b) Applications for certification based on the
23 consolidation of a Department of Defense contract or a new
24 Department of Defense contract must be submitted to the office
25 as prescribed by the office and must include, but are not
26 limited to, the following information:

27 1. The applicant's federal employer identification
28 number, the applicant's Florida sales tax registration number,
29 and a notarized signature of an officer of the applicant.

30 2. The permanent location of the manufacturing,
31 assembling, fabricating, research, development, or design

1 facility in this state at which the project is or is to be
2 located.

3 3. The Department of Defense contract numbers of the
4 contract to be consolidated, the new Department of Defense
5 contract number, or the "RFP" number of a proposed Department
6 of Defense contract.

7 4. The date the contract was executed or is expected
8 to be executed, and the date the contract is due to expire or
9 is expected to expire.

10 5. The commencement date for project operations under
11 the contract in this state.

12 6. The number of net new full-time equivalent Florida
13 jobs included in ~~this state which are or will be dedicated to~~
14 the project as of December 31 of each ~~during the~~ year and the
15 average wage of such jobs.

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

18 8. The percentage of the applicant's gross receipts
19 derived from Department of Defense contracts during the 5
20 taxable years immediately preceding the date the application
21 is submitted.

22 9. The amount of:

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

25 b. Corporate income taxes paid pursuant to chapter
26 220;

27 c. Intangible personal property taxes paid pursuant to
28 chapter 199;

29 d. Emergency excise taxes paid pursuant to chapter
30 221;

31

1 e. Excise taxes paid on documents pursuant to chapter
2 201; and

3 f. Ad valorem taxes paid
4

5 during the 5 fiscal years immediately preceding the date of
6 the application, and the projected amounts of such taxes to be
7 due in the 3 fiscal years immediately following the date of
8 the application.

9 10. The estimated amount of tax refunds to be claimed
10 for ~~in~~ each fiscal year.

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

14 12. A resolution adopted by the county commissioners
15 of the county in which the project will be located, which
16 recommends the applicant be approved as a qualified applicant,
17 and which indicates that the necessary commitments of local
18 financial support for the applicant exist. Prior to the
19 adoption of the resolution, the county commission may review
20 the proposed public or private sources of such support and
21 determine whether the proposed sources of local financial
22 support can be provided or, for any applicant whose project is
23 located in a county designated by the Rural Economic
24 Development Initiative, a resolution adopted by the county
25 commissioners of such county requesting that the applicant's
26 project be exempt from the local financial support
27 requirement.

28 13. Any additional information requested by the
29 office.

30 (c) Applications for certification based on the
31 conversion of defense production jobs to nondefense production

1 jobs must be submitted to the office as prescribed by the
2 office 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 under which the defense production jobs will be
13 converted to nondefense production jobs.

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

17 5. The commencement date for the nondefense production
18 operations in this state.

19 6. The number of net new full-time equivalent Florida
20 jobs included in ~~this state which are or will be dedicated to~~
21 the nondefense production project as of December 31 of each
22 ~~during the 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
10
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 for ~~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
4 office.

5 (d) Applications for certification based on a contract
6 for reuse of a defense-related facility must be submitted to
7 the office as prescribed by the office and must include, but
8 are not limited to, the following information:

9 1. The applicant's Florida sales tax registration
10 number and a notarized signature of an officer of the
11 applicant.

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

16 3. The business entity holding a valid Department of
17 Defense contract or branch of the Armed Forces of the United
18 States that previously occupied the facility, and the date
19 such entity last occupied the facility.

20 4. A copy of the contract to reuse the facility, or
21 such alternative proof as may be prescribed by the office that
22 the applicant is seeking to contract for the reuse of such
23 facility.

24 5. The date the contract to reuse the facility was
25 executed or is expected to be executed, and the date the
26 contract is due to expire or is expected to expire.

27 6. The commencement date for project operations under
28 the contract in this state.

29 7. The number of net new full-time equivalent Florida
30 jobs included in ~~this state which are or will be dedicated to~~

31

1 the project as of December 31 of each ~~during the~~ year and the
2 average wage of such jobs.

3 8. The total number of full-time equivalent employees
4 employed by the applicant in this state.

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.

16 f. Ad valorem taxes paid during the 5 fiscal years
17 immediately preceding the date of the application, and the
18 projected amounts of such taxes to be due in the 3 fiscal
19 years immediately following the date of the application.

20 10. The estimated amount of tax refunds to be claimed
21 for ~~in~~ each fiscal year.

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

25 12. A resolution adopted by the county commissioners
26 of the county in which the project will be located, which
27 recommends the applicant be approved as a qualified applicant,
28 and which indicates that the necessary commitments of local
29 financial support for the applicant exist. Prior to the
30 adoption of the resolution, the county commission may review
31 the proposed public or private sources of such support and

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

8 13. Any additional information requested by the
9 office.

10 (e) To qualify for review by the office, the
11 application of an applicant under paragraph (b), paragraph
12 (c), or paragraph (d) must, at a minimum, establish the
13 following to the satisfaction of the office:

14 1. The jobs proposed to be provided under the
15 application, pursuant to subparagraph (b)6. or subparagraph
16 (c)6., must pay an estimated annual average wage equaling at
17 least 115 percent of the average wage in the area where the
18 project is to be located.

19 2. The consolidation of a Department of Defense
20 contract must result in a net increase of at least 25 percent
21 in the number of jobs at the applicant's facilities in this
22 state or the addition of at least 80 jobs at the applicant's
23 facilities in this state.

24 3. The conversion of defense production jobs to
25 nondefense production jobs must result in net increases in
26 nondefense employment at the applicant's facilities in this
27 state.

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

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

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

12 (f) Each application meeting the requirements of
13 paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs
14 (d) and (e), or paragraphs (j) and (k) must be submitted to
15 the office for a determination of eligibility. The office
16 shall review, evaluate, and score each application based on,
17 but not limited to, the following criteria:

18 1. Expected contributions to the state strategic
19 economic development plan adopted by Enterprise Florida, Inc.,
20 taking into account the extent to which the project
21 contributes to the state's high-technology base, and the
22 long-term impact of the project and the applicant on the
23 state's economy.

24 2. The economic benefit of the jobs created or
25 retained by the project in this state, taking into account the
26 cost and average wage of each job created or retained, and the
27 potential risk to existing jobs.

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 and applicant.

1 5. The impact 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 dependence of the local community on the
5 defense industry.

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

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

14 (g) The office shall forward its written findings and
15 evaluation on each application meeting the requirements of
16 paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs
17 (d) and (e), or paragraphs (j) and (k) to the director within
18 60 calendar days after ~~of~~ receipt of a complete application.
19 The office shall notify each applicant when its application is
20 complete, and when the 60-day period begins. In its written
21 report to the director, the office shall specifically address
22 each of the factors specified in paragraph (f), and shall make
23 a specific assessment with respect to the minimum requirements
24 established in paragraph (e) or paragraph (k). The office
25 shall include in its report projections of the tax refunds the
26 business would be eligible to receive ~~refund claims that will~~
27 ~~be sought by the applicant~~ in each fiscal year based on the
28 creation and maintenance of the net new Florida jobs specified
29 in subparagraphs (b)6., (c)6., (d)7., or (j)4. or the
30 retention and maintenance of the net retained Florida jobs
31 specified in subparagraph (j)4., as of December 31 of the

1 preceding state fiscal year information submitted in the
2 application.

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

11 (i) The director may not certify ~~enter any final order~~
12 ~~that certifies~~ any applicant as a qualified applicant when the
13 value of tax refunds to be included in that letter of
14 certification ~~final order~~ exceeds the available amount of
15 authority to certify new businesses ~~enter final orders~~ as
16 determined in s. 288.095(3). A letter of certification ~~final~~
17 ~~order~~ that approves an application must specify the maximum
18 amount of a tax refund that is to be available to the
19 contractor or aviation-industry business for ~~in~~ each fiscal
20 year and the total amount of tax refunds for all fiscal years.

21 (j) Applications for certification from
22 aviation-industry businesses must be submitted to the office
23 no later than June 30, 2003, as prescribed by the office and
24 under the conditions contained in paragraph (3)(a), and must
25 include, but are not limited to, the following information:

26 1. The applicant's federal employer identification
27 number, the applicant's Florida sales tax registration number,
28 the applicant's unemployment compensation account number, and
29 a notarized signature of an officer of the applicant.

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

1 3. A description of the type of business activity or
2 product covered by this project. In addition, an
3 aviation-industry business must submit, in a manner prescribed
4 by the office, detailed information on the contract,
5 consolidation, conversion, or expansion activity that will
6 provide the basis for tax refunds, as provided in paragraphs
7 (1)(i) and (3)(a). The office, using criteria developed by the
8 office in conjunction with Enterprise Florida, Inc., must
9 determine whether the activity satisfies the requirements of
10 paragraphs (1)(i) and (3)(a).

11 4. The number of net new or net retained full-time
12 equivalent Florida jobs included in the project as of December
13 31 of each year and the average wage of such jobs.

14 5. The total number of full-time equivalent employees
15 employed by the applicant in this state as of the date of
16 application.

17 6. The anticipated commencement date of the project.

18 7. A brief statement concerning the applicant's need
19 for tax refunds and concerning the role that the tax refunds
20 will play in the decision of the applicant to secure a new
21 contract, consolidate operations, convert to
22 nonaviation-industry operations, or expand aviation-industry
23 operations, as provided in paragraph (3)(a).

24 8. An estimate of the proportion of the sales
25 resulting from the project that will be made outside the
26 state.

27 9. A resolution adopted by the governing body of the
28 county or municipality in which the project will be located,
29 which resolution recommends that certain types of businesses
30 be approved as qualified aviation-industry businesses and
31 states that the commitments of local financial support

1 necessary for the aviation-industry business exist. Before
2 passage of the resolution, the office may also accept an
3 official letter from an authorized local economic development
4 agency that endorses the proposed aviation-industry project
5 and pledges that sources of local financial support for such
6 project exist. For the purposes of making pledges of local
7 financial support under this subsection, the authorized local
8 economic development agency shall be officially designated by
9 the passage of a one-time resolution by the local governing
10 body.

11 10. Any additional information requested by the
12 office.

13 (k) To qualify for review by the office, the
14 application of an aviation-industry business must, at a
15 minimum, establish the following to the satisfaction of the
16 office:

17 1. The jobs proposed to be provided under the
18 application, pursuant to subparagraph (j)4., must pay an
19 estimated annual average wage equaling at least 100 percent of
20 the average private-sector wage in the area where the business
21 is to be located or the statewide private-sector average wage.
22 The office may waive this average wage requirement at the
23 request of the local governing body recommending the project
24 and Enterprise Florida, Inc. The wage requirement may only be
25 waived for a project located in a brownfield area designated
26 under s. 376.80, in a rural city or county as defined in s.
27 288.106(1), or in an enterprise zone as designated under s.
28 290.0065 and only when the merits of the individual project or
29 the specific circumstances in the community in relationship to
30 the project warrant such action. If the local governing body
31 and Enterprise Florida, Inc., make such a request, they must

1 transmit it in writing and explain the specific justification
2 for the waiver request. If the director elects to waive the
3 wage requirements, the director must state the waiver in
4 writing and must explain the reasons for granting the waiver.

5 2. The aviation-industry business's project must
6 result in the retention or creation of at least 5 jobs at such
7 project and, if an expansion of an existing business, must
8 result in a net increase in employment of not less than 10
9 percent at such business. At the request of the local
10 governing body recommending the project and Enterprise
11 Florida, Inc., the office may define an "expansion of an
12 existing business" for purposes of a rural community, as
13 defined in s. 288.106(1), or an enterprise zone as the
14 expansion of a business resulting in a net increase in
15 employment of less than 10 percent at such business if the
16 merits of the individual project or the specific circumstances
17 in the community in relationship to the project warrant such
18 action. If the local governing body and Enterprise Florida,
19 Inc., make such a request, they must transmit it in writing
20 and explain the specific justification for the request. If the
21 director elects to grant such request, the director must state
22 such election in writing and must explain the reason for
23 granting the request.

24 3. In the case of an application based on the
25 retention of jobs in this state, the aviation-industry
26 business must demonstrate, and the office must determine, that
27 the jobs that are to provide a basis for tax refunds are at
28 imminent risk of being lost to the state and that
29 certification as a qualified aviation-industry business under
30 this section is a significant factor in the retention of those
31 jobs.

1 ~~(1)(j)~~ This section does not create a presumption that
2 an applicant should receive any tax refunds under this
3 section.

4 (4) ~~QUALIFIED DEFENSE CONTRACTOR TAX REFUND~~
5 AGREEMENT.--

6 (a) A qualified applicant shall enter into a written
7 agreement with the office containing, but not limited to, the
8 following:

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

18 2. The maximum amount of a refund that the qualified
19 applicant is eligible to receive for in each fiscal year,
20 based on the job creation or retention and maintenance
21 schedule specified in subparagraph 1.

22 3. An agreement with the office allowing the office to
23 review and verify the financial and personnel records of the
24 qualified applicant to ascertain whether the qualified
25 applicant is complying with the requirements of this section.

26 4. The date by ~~after~~ which, in each fiscal year, the
27 qualified applicant may file a ~~an annual~~ claim pursuant to
28 subsection (5) to be considered to receive a tax refund in the
29 following fiscal year.

30
31

1 5. That local financial support shall be annually
2 available and will be paid to the Economic Development Trust
3 Fund.

4 (b) Compliance with the terms and conditions of the
5 agreement is a condition precedent for receipt of tax refunds
6 each year. The failure to comply with the terms and conditions
7 of the agreement shall result in the loss of eligibility for
8 receipt of all tax refunds previously authorized pursuant to
9 this section, and the revocation of the certification as a
10 qualified applicant by the director, unless the applicant is
11 eligible to receive and elects to accept a prorated refund
12 under paragraph (5)(g) or the office grants the qualified
13 applicant an economic-stimulus exemption.

14 1. A qualified applicant may submit, in writing, a
15 request to the office for an economic-stimulus exemption. The
16 request must provide quantitative evidence demonstrating how
17 negative economic conditions in the qualified applicant's
18 industry, or specific acts of terrorism affecting the
19 qualified applicant, have prevented the business from
20 complying with the terms and conditions of its tax refund
21 agreement.

22 2. Upon receipt of a request under subparagraph 1.,
23 the director shall have 45 days to notify the requesting
24 qualified applicant, in writing, whether its exemption has
25 been granted or denied. In determining whether an exemption
26 should be granted, the director shall consider the extent to
27 which negative economic conditions in the requesting qualified
28 applicant's industry, or specific acts of terrorism affecting
29 the qualified applicant, have prevented the business from
30 complying with the terms and conditions of its tax refund
31 agreement.

1 3. As a condition for receiving a prorated refund
2 under paragraph (5)(g) or an economic-stimulus exemption under
3 this paragraph, a qualified applicant must agree to
4 renegotiate its tax refund agreement with the office to, at a
5 minimum, ensure that the terms of the agreement comply with
6 current law and office procedures governing application for
7 and award of tax refunds. Upon approving the award of a
8 prorated refund or granting an economic-stimulus exemption,
9 the office shall renegotiate the tax refund agreement with the
10 qualified applicant as required by this subparagraph. When
11 amending the agreement of a qualified applicant receiving an
12 economic-stimulus exemption, the office may extend the
13 duration of the agreement for a period not to exceed 1 year.

14 4. A qualified applicant may submit a request for an
15 economic-stimulus exemption to the office in lieu of any tax
16 refund claim scheduled to be submitted after June 30, 2001,
17 but before July 1, 2003.

18 5. A qualified applicant that receives an
19 economic-stimulus exemption may not receive a tax refund for
20 the period covered by the exemption.

21 (c) The agreement shall be signed by the director and
22 the authorized officer of the qualified applicant.

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

26
27 "This agreement is neither a general obligation
28 of the State of Florida, nor is it backed by
29 the full faith and credit of the State of
30 Florida. Payment of tax refunds are conditioned
31 on and subject to specific annual

1 appropriations by the Florida Legislature of
2 funds sufficient to pay amounts authorized in
3 s. 288.1045, Florida Statutes."

4
5 (5) ANNUAL CLAIM FOR REFUND ~~FROM A QUALIFIED DEFENSE~~
6 ~~CONTRACTOR.--~~

7 (a) To be eligible to claim any scheduled tax refund,
8 qualified applicants who have entered into a written agreement
9 with the office pursuant to subsection (4) and who have
10 entered into a valid new Department of Defense contract,
11 commenced the consolidation of a Department of Defense
12 contract, commenced the conversion of defense production jobs
13 to nondefense production jobs, ~~or who have~~ entered into a
14 valid contract for reuse of a defense-related facility, or
15 commenced a qualified aviation-industry project must ~~may~~ apply
16 by January 31 of ~~once~~ each fiscal year to the office for tax
17 refunds scheduled to be paid from the appropriation for the
18 fiscal year that begins on July 1 following the January 31
19 claims-submission date. The office may, upon written request,
20 grant a 30-day extension of the filing date.The application
21 ~~must be made on or after the date contained in the agreement~~
22 ~~entered into pursuant to subsection (4) and must include a~~
23 notarized signature of an officer of the applicant.

24 (b) The claim for refund by the qualified applicant
25 must include a copy of all receipts pertaining to the payment
26 of taxes for which a refund is sought, and data related to
27 achieving each performance item contained in the tax refund
28 agreement pursuant to subsection (4). The amount requested as
29 a tax refund may not exceed the amount for the relevant fiscal
30 year in the written agreement entered pursuant to subsection
31 (4).

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

16 (d) The director, with assistance from the office, the
17 Department of Revenue, and the Agency for Workforce Innovation
18 ~~Department of Labor and Employment Security~~, shall, by June 30
19 following the scheduled date for submitting the tax-refund
20 claim, specify by written order the approval or disapproval of
21 the tax refund claim and, if approved, determine the amount of
22 the tax refund that is authorized to be paid to for the
23 qualified applicant for the ~~fiscal year in a written final~~
24 ~~order within 30 days after the date the claim for the annual~~
25 ~~tax refund is received by the office~~. The office may grant an
26 extension of this date upon the request of the qualified
27 applicant for the purpose of filing additional information in
28 support of the claim.

29 (e) The total amount of tax refunds approved by the
30 director under this section in any fiscal year may not exceed
31 the amount appropriated to the Economic Development Trust Fund

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

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

21 (g) A prorated tax refund, less a 5 percent penalty,
22 shall be approved for a qualified applicant provided all other
23 applicable requirements have been satisfied and the applicant
24 proves to the satisfaction of the director that it has
25 achieved at least 80 percent of its projected employment and
26 that the average wage paid by the business is at least 90
27 percent of the average wage specified in the tax refund
28 agreement, but in no case less than 115 percent, or 100
29 percent in the case of a qualified aviation-industry business,
30 of the average private-sector wage in the area available at
31 the time of the claim. The prorated tax refund shall be

1 calculated by multiplying the tax refund amount for which the
2 qualified applicant would have been eligible, if all
3 applicable requirements had been satisfied, by the percentage
4 of the average employment specified in the tax refund
5 agreement which was achieved, and by the percentage of the
6 average wages specified in the tax refund agreement which was
7 achieved.

8 (h) This section does not create a presumption that a
9 tax refund claim will be approved and paid.

10 (6) ADMINISTRATION.--

11 (a) The office may adopt rules pursuant to chapter 120
12 for the administration of this section.

13 (b) The office may verify information provided in any
14 claim submitted for tax credits under this section with regard
15 to employment and wage levels or the payment of the taxes with
16 the appropriate agency or authority including the Department
17 of Revenue, the Agency for Workforce Innovation ~~Department of~~
18 ~~Labor and Employment Security~~, or any local government or
19 authority.

20 (c) To facilitate the process of monitoring and
21 auditing applications made under this program, the office may
22 provide a list of qualified applicants to the Department of
23 Revenue, to the Agency for Workforce Innovation ~~Department of~~
24 ~~Labor and Employment Security~~, or to any local government or
25 authority. The office may request the assistance of said
26 entities with respect to monitoring jobs, wages, and the
27 payment of the taxes listed in subsection (2).

28 (d) By December 1 of each year, the office shall
29 submit a complete and detailed report to the Governor, the
30 President of the Senate, and the Speaker of the House of
31 Representatives of all tax refunds paid under this section,

1 including analyses of benefits and costs, types of projects
2 supported, employment and investment created, geographic
3 distribution of tax refunds granted, and minority business
4 participation. The report must indicate whether the moneys
5 appropriated by the Legislature to the qualified applicant tax
6 refund program were expended in a prudent, fiducially sound
7 manner.

8 (e) Funds specifically appropriated for the tax refund
9 program under this section may not be used for any purpose
10 other than the payment of tax refunds authorized by this
11 section.

12 (7) EXPIRATION.--An applicant may not be certified as
13 qualified under this section after June 30, 2004.

14 Section 4. Paragraphs (a) and (d) of subsection (3),
15 paragraphs (a), (b), and (c) of subsection (4), and
16 subsections (5) and (6) of section 288.106, Florida Statutes,
17 are amended, and subsection (7) of that section is reenacted,
18 to read:

19 288.106 Tax refund program for qualified target
20 industry businesses.--

21 (3) APPLICATION AND APPROVAL PROCESS.--

22 (a) To apply for certification as a qualified target
23 industry business under this section, the business must file
24 an application with the office before the business has made
25 the decision to locate a new business in this state or before
26 the business had made the decision to expand an existing
27 business in this state. The application shall include, but is
28 not limited to, the following information:

29 1. The applicant's federal employer identification
30 number and the applicant's state sales tax registration
31 number.

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

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

6 4. The number of net new full-time equivalent Florida
7 jobs at the qualified target industry business as of December
8 31 of each year included in ~~this state that are or will be~~
9 ~~dedicated to~~ the project and the average wage of those jobs.

10 If more than one type of business activity or product is
11 included in the project, the number of jobs and average wage
12 for those jobs must be separately stated for each type of
13 business activity or product.

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

16 6. The anticipated commencement date of the project.

17 7. A brief statement concerning the role that the tax
18 refunds requested will play in the decision of the applicant
19 to locate or expand in this state.

20 8. An estimate of the proportion of the sales
21 resulting from the project that will be made outside this
22 state.

23 9. A resolution adopted by the governing board of the
24 county or municipality in which the project will be located,
25 which resolution recommends that certain types of businesses
26 be approved as a qualified target industry business and states
27 that the commitments of local financial support necessary for
28 the target industry business exist. In advance of the passage
29 of such resolution, the office may also accept an official
30 letter from an authorized local economic development agency
31 that endorses the proposed target industry project and pledges

1 that sources of local financial support for such project
2 exist. For the purposes of making pledges of local financial
3 support under this subsection, the authorized local economic
4 development agency shall be officially designated by the
5 passage of a one-time resolution by the local governing
6 authority.

7 10. Any additional information requested by the
8 office.

9 (d) The office shall forward its written findings and
10 evaluation concerning each application meeting the
11 requirements of paragraph (b) to the director within 45
12 calendar days after receipt of a complete application. The
13 office shall notify each target industry business when its
14 application is complete, and of the time when the 45-day
15 period begins. In its written report to the director, the
16 office shall specifically address each of the factors
17 specified in paragraph (c) and shall make a specific
18 assessment with respect to the minimum requirements
19 established in paragraph (b). The office shall include in its
20 report projections of the tax refunds the business would be
21 eligible to receive ~~refund claim that will be sought by the~~
22 ~~target industry business~~ in each fiscal year based on the
23 creation and maintenance of the net new Florida jobs specified
24 in subparagraph (a)4. as of December 31 of the preceding state
25 fiscal year ~~information submitted in the application.~~

26 (4) TAX REFUND AGREEMENT.--

27 (a) Each qualified target industry business must enter
28 into a written agreement with the office which specifies, at a
29 minimum:

30 1. The total number of full-time equivalent jobs in
31 this state that will be dedicated to the project, the average

1 wage of those jobs, the definitions that will apply for
2 measuring the achievement of these terms during the pendency
3 of the agreement, and a time schedule or plan for when such
4 jobs will be in place and active in this state. ~~This~~
5 ~~information must be the same as the information contained in~~
6 ~~the application submitted by the business under subsection~~
7 ~~(3).~~

8 2. The maximum amount of tax refunds which the
9 qualified target industry business is eligible to receive on
10 the project and the maximum amount of a tax refund that the
11 qualified target industry business is eligible to receive for
12 in each fiscal year, based on the job creation and maintenance
13 schedule specified in subparagraph 1.

14 3. That the office may review and verify the financial
15 and personnel records of the qualified target industry
16 business to ascertain whether that business is in compliance
17 with this section.

18 4. The date by after which, in each fiscal year, the
19 qualified target industry business may file a an annual claim
20 under subsection (5) to be considered to receive a tax refund
21 in the following fiscal year.

22 5. That local financial support will be annually
23 available and will be paid to the account. The director may
24 not enter into a written agreement with a qualified target
25 industry business if the local financial support resolution is
26 not passed by the local governing authority within 90 days
27 after he or she has issued the letter of certification under
28 subsection (3).

29 (b) Compliance with the terms and conditions of the
30 agreement is a condition precedent for the receipt of a tax
31 refund each year. The failure to comply with the terms and

1 conditions of the tax refund agreement results in the loss of
2 eligibility for receipt of all tax refunds previously
3 authorized under this section and the revocation by the
4 director of the certification of the business entity as a
5 qualified target industry business, unless the business is
6 eligible to receive and elects to accept a prorated refund
7 under paragraph (5)(d) or the office grants the business an
8 economic-stimulus exemption.

9 1. A qualified target industry business may submit, in
10 writing, a request to the office for an economic-stimulus
11 exemption. The request must provide quantitative evidence
12 demonstrating how negative economic conditions in the
13 business's industry, or specific acts of terrorism affecting
14 the qualified target industry business, have prevented the
15 business from complying with the terms and conditions of its
16 tax refund agreement.

17 2. Upon receipt of a request under subparagraph 1.,
18 the director shall have 45 days to notify the requesting
19 business, in writing, if its exemption has been granted or
20 denied. In determining whether an exemption should be granted,
21 the director shall consider the extent to which negative
22 economic conditions in the requesting business's industry, or
23 specific acts of terrorism affecting the qualified target
24 industry business, have prevented the business from complying
25 with the terms and conditions of its tax refund agreement.

26 3. As a condition for receiving a prorated refund
27 under paragraph (5)(d) or an economic-stimulus exemption under
28 this paragraph, a qualified target industry business must
29 agree to renegotiate its tax refund agreement with the office
30 to, at a minimum, ensure that the terms of the agreement
31 comply with current law and office procedures governing

1 application for and award of tax refunds. Upon approving the
2 award of a prorated refund or granting an economic-stimulus
3 exemption, the office shall renegotiate the tax refund
4 agreement with the business as required by this subparagraph.
5 When amending the agreement of a business receiving an
6 economic-stimulus exemption, the office may extend the
7 duration of the agreement for a period not to exceed 1 year.

8 4. A qualified target industry business may submit a
9 request for an economic-stimulus exemption to the office in
10 lieu of any tax refund claim scheduled to be submitted after
11 June 30, 2001, but before July 1, 2003.

12 5. A qualified target industry business that receives
13 an economic-stimulus exemption may not receive a tax refund
14 for the period covered by the exemption.

15 (c) The agreement must be signed by the director and
16 by an authorized officer of the qualified target industry
17 business within 120 days after the issuance of the letter of
18 certification under subsection (3), but not before passage and
19 receipt of the resolution of local financial support. The
20 office may grant an extension of this period at the written
21 request of the qualified target industry business.

22 (5) ANNUAL CLAIM FOR REFUND.--

23 (a) To be eligible to claim any scheduled tax refund,
24 a qualified target industry business that has entered into a
25 tax refund agreement with the office under subsection (4) must
26 may apply by January 31 of ~~once~~ each fiscal year to the office
27 for the ~~a~~ tax refund scheduled to be paid from the
28 appropriation for the fiscal year that begins on July 1
29 following the January 31 claims-submission date. The office
30 may, upon written request, grant a 30-day extension of the

31

1 filing date.~~The application must be made on or after the date~~
2 ~~specified in that agreement.~~

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

10 (c) A tax refund may not be approved for a qualified
11 target industry business unless the required local financial
12 support has been paid into the account for that refund ~~in that~~
13 ~~fiscal year~~. If the local financial support provided is less
14 than 20 percent of the approved tax refund, the tax refund
15 must be reduced. In no event may the tax refund exceed an
16 amount that is equal to 5 times the amount of the local
17 financial support received. Further, funding from local
18 sources includes any tax abatement granted to that business
19 under s. 196.1995 or the appraised market value of municipal
20 or county land conveyed or provided at a discount to that
21 business. The amount of any tax refund for such business
22 approved under this section must be reduced by the amount of
23 any such tax abatement granted or the value of the land
24 granted; and the limitations in subsection (2) and paragraph
25 (3)(f) must be reduced by the amount of any such tax abatement
26 or the value of the land granted. A report listing all sources
27 of the local financial support shall be provided to the office
28 when such support is paid to the account.

29 (d) A prorated tax refund, less a 5-percent penalty,
30 shall be approved for a qualified target industry business
31 provided all other applicable requirements have been satisfied

1 and the business proves to the satisfaction of the director
2 that it has achieved at least 80 percent of its projected
3 employment and that the average wage paid by the business is
4 at least 90 percent of the average wage specified in the tax
5 refund agreement, but in no case less than 115 percent of the
6 average private-sector wage in the area available at the time
7 of the claim, or 150 percent or 200 percent of the average
8 private-sector wage if the business requested the additional
9 per-job tax refund authorized in paragraph (2)(b) for wages
10 above those levels. The prorated tax refund shall be
11 calculated by multiplying the tax refund amount for which the
12 qualified target industry business would have been eligible,
13 if all applicable requirements had been satisfied, by the
14 percentage of the average employment specified in the tax
15 refund agreement which was achieved, and by the percentage of
16 the average wages specified in the tax refund agreement which
17 was achieved.

18 (e) The director, with such assistance as may be
19 required from the office, the Department of Revenue, or the
20 Agency for Workforce Innovation ~~Department of Labor and~~
21 ~~Employment Security~~, shall, by June 30 following the scheduled
22 date for submission of the tax-refund claim, specify by
23 written final order the approval or disapproval of the tax
24 refund claim and, if approved, the amount of the tax refund
25 that is authorized to be paid to for the qualified target
26 industry business ~~for the fiscal year within 30 days after the~~
27 ~~date that the claim for the annual tax refund is received by~~
28 ~~the office.~~ The office may grant an extension of this date on
29 the request of the qualified target industry business for the
30 purpose of filing additional information in support of the
31 claim.

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

4 (g) This section does not create a presumption that a
5 tax refund claim will be approved and paid.

6 (h)~~(g)~~ Upon approval of the tax refund under
7 paragraphs (c), (d), and (e), the Comptroller shall issue a
8 warrant for the amount specified in the written final order.
9 If the written final order is appealed, the Comptroller may
10 not issue a warrant for a refund to the qualified target
11 industry business until the conclusion of all appeals of that
12 order.

13 (6) ADMINISTRATION.--

14 (a) The office is authorized to verify information
15 provided in any claim submitted for tax credits under this
16 section with regard to employment and wage levels or the
17 payment of the taxes to the appropriate agency or authority,
18 including the Department of Revenue, the Agency for Workforce
19 Innovation ~~Department of Labor and Employment Security~~, or any
20 local government or authority.

21 (b) To facilitate the process of monitoring and
22 auditing applications made under this program, the office may
23 provide a list of qualified target industry businesses to the
24 Department of Revenue, to the Agency for Workforce Innovation
25 ~~Department of Labor and Employment Security~~, or to any local
26 government or authority. The office may request the assistance
27 of those entities with respect to monitoring jobs, wages, and
28 the payment of the taxes listed in subsection (2).

29 (c) Funds specifically appropriated for the tax refund
30 program for qualified target industry businesses may not be
31

1 used for any purpose other than the payment of tax refunds
2 authorized by this section.

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

4 Section 5. Paragraph (f) of subsection (2) of section
5 14.2015, Florida Statutes, is amended to read:

6 14.2015 Office of Tourism, Trade, and Economic
7 Development; creation; powers and duties.--

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

16 (f)1. Administer the Florida Enterprise Zone Act under
17 ss. 290.001-290.016, the community contribution tax credit
18 program under ss. 220.183 and 624.5105, the tax refund program
19 for qualified target industry businesses under s. 288.106, the
20 tax-refund program for qualified defense contractors and
21 qualified aviation-industry businesses under s. 288.1045,
22 contracts for transportation projects under s. 288.063, the
23 sports franchise facility program under s. 288.1162, the
24 professional golf hall of fame facility program under s.
25 288.1168, the expedited permitting process under s. 403.973,
26 the Rural Community Development Revolving Loan Fund under s.
27 288.065, the Regional Rural Development Grants Program under
28 s. 288.018, the Certified Capital Company Act under s. 288.99,
29 the Florida State Rural Development Council, the Rural
30 Economic Development Initiative, and other programs that are
31 specifically assigned to the office by law, by the

1 appropriations process, or by the Governor. Notwithstanding
2 any other provisions of law, the office may expend interest
3 earned from the investment of program funds deposited in the
4 Economic Development Trust Fund, the Grants and Donations
5 Trust Fund, the Brownfield Property Ownership Clearance
6 Assistance Revolving Loan Trust Fund, and the Economic
7 Development Transportation Trust Fund to contract for the
8 administration of the programs, or portions of the programs,
9 enumerated in this paragraph or assigned to the office by law,
10 by the appropriations process, or by the Governor. Such
11 expenditures shall be subject to review under chapter 216.

12 2. The office may enter into contracts in connection
13 with the fulfillment of its duties concerning the Florida
14 First Business Bond Pool under chapter 159, tax incentives
15 under chapters 212 and 220, tax incentives under the Certified
16 Capital Company Act in chapter 288, foreign offices under
17 chapter 288, the Enterprise Zone program under chapter 290,
18 the Seaport Employment Training program under chapter 311, the
19 Florida Professional Sports Team License Plates under chapter
20 320, Spaceport Florida under chapter 331, Expedited Permitting
21 under chapter 403, and in carrying out other functions that
22 are specifically assigned to the office by law, by the
23 appropriations process, or by the Governor.

24 Section 6. Paragraph (k) of subsection (7) of section
25 213.053, Florida Statutes, is amended to read:

26 213.053 Confidentiality and information sharing.--

27 (7) Notwithstanding any other provision of this
28 section, the department may provide:

29 (k)1. Payment information relative to s. 206.9825 and
30 chapters 199, 201, 212, 220, and 221 to the Office of Tourism,
31 Trade, and Economic Development, or agents of the office

1 identified in writing by the office to the department, in the
2 its administration of the tax refund program for qualified
3 defense contractors and aviation-industry businesses
4 authorized by s. 288.1045.

5 2. Information relative to s. 624.509 and chapters
6 199, 201, 212, 220, and 221 to the Office of Tourism, Trade,
7 and Economic Development, or agents of the office identified
8 in writing by the office to the department, in the
9 administration of the tax refund program for qualified target
10 industry businesses authorized by s. 288.106.

11 3. Information relative to credits taken by businesses
12 under s. 220.191 and exemptions or refunds received by
13 businesses under s. 212.08(5)(j) to the Office of Tourism,
14 Trade, and Economic Development, or agents of the office
15 identified in writing by the office to the department, in the
16 administration and evaluation of the capital investment tax
17 credit program authorized in s. 220.191 and the semiconductor,
18 defense, and space tax exemption program authorized in s.
19 212.08(5)(j).

20
21 Disclosure of information under this subsection shall be
22 pursuant to a written agreement between the executive director
23 and the agency. Such agencies, governmental or
24 nongovernmental, shall be bound by the same requirements of
25 confidentiality as the Department of Revenue. Breach of
26 confidentiality is a misdemeanor of the first degree,
27 punishable as provided by s. 775.082 or s. 775.083.

28 Section 7. Small Business Crisis Management Team.--

29 (1) The Legislature recognizes that periods of
30 sustained economic weakness, whether associated or
31 unassociated with events such as the September 11, 2001,

1 terrorist attacks on the United States, are particularly
2 difficult for small businesses. Because its economy is
3 dominated by small businesses, the state is especially
4 vulnerable to periods of economic weakness. In addition, the
5 Legislature finds that Enterprise Florida, Inc., as the
6 principal economic development organization for the state,
7 works with a diverse network of organizations and therefore is
8 in a unique position to assist small businesses during times
9 of economic crisis.

10 (2) Enterprise Florida, Inc., is directed to
11 incorporate into its operations a Small Business Crisis
12 Management Team that can be activated quickly and for
13 temporary periods of time to assist small businesses in the
14 state during periods of economic crisis or sustained economic
15 weakness. The team shall be comprised of senior staff members
16 from Enterprise Florida, Inc., appointed by the president of
17 Enterprise Florida, Inc., as well as representatives of other
18 organizations who are recruited to serve on the team by the
19 president of Enterprise Florida, Inc. The purposes of the team
20 shall include, but not be limited to:

21 (a) Serving as an initial, single point of contact for
22 small businesses that are attempting to gather information on
23 the variety of state and federal programs and services
24 available to them.

25 (b) Publicizing to small businesses information on
26 federal assistance programs or initiatives, such as the
27 economic injury loan programs of the U.S. Small Business
28 Administration.

29 (c) Referring small businesses to organizations, such
30 as small business development centers, which can provide
31

1 one-on-one counseling in business operations or best
2 practices.

3 (d) Coordinating with the state and regional partners
4 in the workforce development system, including but not limited
5 to the REACT unit of the Agency for Workforce Innovation, to
6 ensure that businesses undergoing layoffs or contemplating
7 layoffs are aware of economic development incentives or other
8 programs and services that may help reduce or avoid the need
9 for such layoffs.

10 (e) Utilizing the eflorida.com website as a resource
11 for small businesses to gather current information on
12 available assistance.

13 (3) The Office of Tourism, Trade, and Economic
14 Development; Workforce Florida, Inc.; the Agency for Workforce
15 Innovation; and the Department of Community Affairs shall
16 assist Enterprise Florida, Inc., with the operation of the
17 Small Business Crisis Management Team and shall each appoint
18 at least one staff member to serve as a liaison to the team.

19 (4) In order to provide a focus for the activities of
20 the Small Business Crisis Management Team, the term "small
21 business" as used in this section generally shall mean a
22 business with 25 or fewer employees. Enterprise Florida, Inc.,
23 however, may provide services under this section to businesses
24 with more employees if, in its judgment, the economic
25 conditions or circumstances of the particular business
26 warrant.

27 Section 8. This act shall take effect upon becoming a
28 law.

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SENATE SUMMARY

Temporarily broadens the eligibility criteria and award structure for the capital investment tax credit. Provides criteria under which a qualifying economic stimulus business is eligible for the credit. Requires Enterprise Florida, Inc., to analyze and report on the economic impact of tax refunds issued under the Economic Development Trust Fund. Provides for qualified aviation-industry businesses to receive a tax refund under the program for qualified defense contractors. Provides procedures for the Office of Tourism, Trade, and Economic Development to grant an economic-stimulus exemption to a business that failed to comply with the terms of a tax-refund agreement. Provides procedures for a prorated refund. Revises the tax refund program for qualified target industry businesses to provide for an economic-stimulus exemption and a prorated refund. Requires Enterprise Florida, Inc., to create a Small Business Crisis Management Team. Requires that the team assist small businesses during periods of economic crisis or sustained economic weakness.